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International financial system and development

Report of the Secretary-General

Summary

The present report, submitted in response to General Assembly resolution 64/190, complements the report of the Secretary-General on the follow-up to and implementation of the Monterrey Consensus and the Doha Declaration on Financing for Development. It reviews recent trends in the net transfer of financial resources to developing countries and current efforts to reform the international monetary and financial system and architecture. The report highlights the urgent challenges arising from the world financial and economic crisis and its impact on development, in particular in the key areas of financial regulation and supervision, multilateral surveillance, macroeconomic policy coordination, a global financial safety net, the international reserve system and governance reform of the Bretton Woods institutions.

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I. Net transfer of financial resources of developing and transition economies

1. The world financial and economic crisis has highlighted the weaknesses of the international financial system in terms of underpinning financial stability and mobilizing financial resources for development. While international financial liberalization has increased the access of developing countries to financial resources, the procyclical, boom — bust cycles of private capital flows have not delivered the stable supply of financing that is needed. Rather, the crisis has posed serious challenges to the capacity of national macroeconomic policies to mitigate financial volatility and prevent spillover of problems to the real economy. Countries have also had to incur the burden of accumulating foreign reserve holdings to provide self-insurance against external shocks.

A. Lower net outward resource transfers from developing countries in 2009

2. Developing countries as a group continued to provide net financial resources to developed countries in 2009, amounting to $513 billion. While still substantial, this amount is notably lower than the record high of $883 billion reached in 2008 (see annex). The decrease reflects the transitory narrowing of global imbalances as a consequence of the global economic and financial crisis. The structure of flows underlying the reversal of the increase in financial transfers in 2009 indicates, for the most part, a disorderly unwinding of accumulated global imbalances.

3. The impact of the global financial crisis and its aftermath has affected net financial transfers from developing countries in all regions of the developing world. Western Asia experienced the strongest decline in net resource transfers in 2009, reflected in much lower oil export revenues and by countries in the region drawing on international reserves to compensate for the fall in external demand. In Latin America and the Caribbean, the value of export earnings declined in line with the contraction of world trade in goods in 2009. Negative net transfers in East and South Asia declined modestly in 2009 with the narrowing of the current account surplus. Net transfers from countries with economies in transition decreased from just over $150 billion in 2008 to $80 billion in 2009, reflecting weak exports and a deterioration of the current account balance.

4. The structural problems underlying the emergence of global imbalances persist and the current path of global recovery is expected to result in a reversal to increased macroeconomic imbalances (see E/2010/73). This is mirrored by an expected increase in outward resource transfer from developing countries in 2010. After the end of fiscal stimulus and a rebalancing from public expenditure to private investment and consumption, it is expected that a still-large Government deficit of the United States of America will likely increase that country's external deficit. Similarly, the external balance of the European Union may also be expected to increase in 2010. In Asia in particular, relatively weak domestic demand has not fundamentally changed, in spite of recently announced changes in exchange rate policy and measures to stimulate domestic consumption. Therefore, significant time and investment will be required to achieve structural changes to move away from a high dependence on exports for growth. The potential increase in global imbalances

in the context of slowing economic recovery and mounting public indebtedness in the major economies elevate the risks of exchange-rate and financial market volatility.

5. Developing countries have continued to accumulate foreign reserves to insure against financial shocks. Despite the effective use by emerging market economies of this buffer against the impact of the financial crisis, the disorderly unwinding of global imbalances during the financial crisis highlights the importance of building a global financial safety net (see sect. II.C below).

B. Recovery of private capital inflows to developing countries

6. Owing to the effects of the turbulence in global financial markets, the levels of net private capital flows to developing countries have fallen sharply during the past two years. There has been a strong recovery in inflows since 2009 however, especially to some emerging economies. Nevertheless, despite these signs of resurgence, the overall magnitude of international private capital flowing into developing countries remains well below the peak registered in 2007.

7. The rebound in private capital inflows has been aided by policy measures to recapitalize financial institutions and stabilize markets, as well as by rapid growth and buoyant stock markets in some emerging economies. Moreover, the crisis also seems to have altered perceptions regarding the relative risk characteristics of emerging markets and advanced economies. It has been argued that, owing to debt problems in a number of advanced economies in Europe, the perceptions of investors about sovereign credit risks have moved in favour of emerging economies.[1] As a result, the Emerging Markets Bond Index Global (EMBIG) yield spread index has narrowed from close to 470 basis points in mid-2009 to about 330 basis points in mid-2010.[2] Despite this, any upturn in private capital flows to developing countries would be limited by factors such as higher asset valuations in some emerging markets and relatively muted demand for external borrowing in some emerging economies, especially in Asia, because of relatively low domestic interest rates.[3]

8. The impact of the global economic crisis on private capital flows to Africa has been relatively limited, as risks in the majority of financial markets in the region tend to be uncorrelated with those in the advanced economies. Inflows of foreign direct investment (FDI) to Africa reached record levels in 2008, but declined in 2009.[4] Most of these flows have gone into the natural-resource sector in commodity-rich countries. There has been a strong recovery in private capital flows into East and South Asia over the past year, led by an upturn in portfolio flows and bank lending. There are signs of stabilization in net private capital flows to Latin America, led in particular by a rebound in portfolio investment. After the sharp reversal of a massive increase in credit flows to Western Asia in 2008, inflows remained weak in 2009, owing to large net repayments to banks by some States.

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[1] International Monetary Fund, *Global Financial Stability Report: Meeting New Challenges to Stability and Building a Safer System* (Washington, D.C., April 2010); World Bank, *Global Economic Prospects Summer 2010: Fiscal Headwinds and Recovery* (Washington, D.C., 2010).

[2] J.P. Morgan Chase database (www.morganmarkets.com).

[3] Institute of International Finance, "Capital flows to emerging market economies", April, 2010.

[4] *World Economic Situation and Prospects 2010* (United Nations publication, Sales No. E.10.II.C.2).

9. Flows of FDI remain the largest component of private resource flows to developing countries, despite a considerable decline in inflows in 2009. The crisis has had a negative impact on FDI through reduced access to finance for firms that are investing and by affecting investor confidence as a result of gloomy economic prospects and market conditions. All regions have experienced a decline in FDI inflows. Any recovery of FDI inflows is expected to be curbed by a muted desire on the part of firms for cross-border mergers and acquisitions and for green-field development.[5]

10. Bank lending continues to be subdued as a result of persistent deleveraging by international banks. Conditions are especially muted in the transition economies of Europe and Central Asia, where mounting non-performing loans are likely to restrain lending.[6] Portfolio investment flows to developing countries also declined markedly during the crisis, although there has been a recovery in capital movements to some countries in Asia and Latin America that are viewed as having better growth prospects. In general, there are signs of a strong improvement in the cost and availability of debt financing in emerging countries. Emerging market corporate and sovereign bonds have been issued at a record pace in the first half of 2010, with particularly strong growth in corporate borrowing, led by companies from China.

11. There are a number of sources of risk that could depress levels of private capital flows to developing countries. A renewed downturn in the global economy may affect flows of capital to the developing world. A dampening of global economic activity could also take place as the effects of stimulus measures wear off in a number of countries. In addition, a recovery in investor appetite for emerging-market risk could increase short-term capital flows to certain countries, which may give rise to inflationary pressures and new asset price bubbles. In this regard, there has been discussion on the use of policy tools, including capital controls, to limit the volatility of short-term capital flows. A number of countries, such as Indonesia and the Republic of Korea, announced capital controls to regulate speculative capital inflows. In October 2009, Brazil instituted a 2 per cent tax on capital inflows to portfolio investments in equity and debt. The issue was discussed at the June 2010 meeting of Group of 20 (G-20) finance ministers in the Republic of Korea.

C. Official development assistance falls short of targets

12. While official development assistance (ODA) grew slightly in real terms from 2008 to 2009, it is projected to fall short of existing internationally agreed aid commitments for 2010.[7] Total net ODA from Organization for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC) member countries rose slightly, by 0.7 per cent in real terms from 2008 to 2009, to reach $119.6 billion, constituting 0.31 per cent of their combined gross national income (GNI) in 2009. Net ODA to Africa was $27 billion in 2009, including $24 billion channelled to sub-Saharan Africa, representing an increase of 3 per cent and 5.1 per cent, respectively, over 2008.

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[5] IMF, *Global Financial Stability Report* (2010).

[6] World Bank, *Global Economic Prospects* (2010).

[7] Organization for Economic Cooperation and Development, "Development aid rose in 2009 and most donors will meet 2010 aid targets", 14 April 2010, available from http://www.oecd.org.

13. Net ODA from the United States increased by 5.4 per cent in real terms from 2008 to 2009 and reached $28.7 billion, representing 0.20 per cent of its GNI. In 2009, the United States increased its ODA to sub-Saharan Africa by 10.5 per cent to $7.5 billion and to least developed countries by 13.6 per cent to $8.1 billion. Thus, the United States delivered on its pledge to double its aid to sub-Saharan Africa between 2004 and 2010 ahead of schedule. The combined net ODA from 15 DAC European Union members fell by 0.2 per cent to $67.1 billion in 2009, however, while their ODA/GNI ratio rose marginally to 0.44 per cent following a decline in GNI resulting from the economic contraction in much of the region. The net ODA of Japan also fell by 10.7 per cent in real terms to $9.5 billion, with a marginal decline of its ODA/GNI ratio to 0.18 per cent in 2009. As a result, Japan fell short by $3.6 billion in delivering on its commitment to increase ODA by $10 billion from 2005 to 2009.

14. Pledges to provide ODA made at the Gleneagles summit of the Group of Eight (G-8) and other international forums implied lifting ODA from about $80 billion in 2004 to nearly $130 billion (in 2004 prices) in 2010, or 0.36 per cent of the combined GNI of DAC member States. Taking into account the negative impact of the global financial crisis on donor GNI, OECD has revised the dollar value of the target for 2010 down to $126 billion (in 2004 prices).

15. While most DAC member States have maintained their 2010 commitments, some of them, including some large donors, have reduced their pledges or postponed their target dates. Hence, net ODA for 2010 is estimated at $108 billion (in 2004 prices), constituting 0.32 per cent of combined donor GNI. This level of ODA represents an expected shortfall of $18 billion (in 2004 prices) against the revised 2005 commitment, and $22 billion below the original target. The shortfall is particularly glaring in ODA to Africa, which is now estimated to be $11 billion against the initially pledged $25 billion for 2010. This is attributable to some European donors, who allocate large shares of their ODA to Africa, not meeting their targets pledged at the Gleneagles G-8 summit. This ODA delivery gap is a serious threat to efforts to accelerate achievement of the Millennium Development Goals in low-income countries in Africa.

16. In June 2010, heads of State and Government of the European Union reaffirmed their commitment to reach a collective ODA/GNI ratio of 0.7 per cent by 2015. They also decided to evaluate annual progress achieved on aid targets. Leaders of the G-8 and G-20, at their respective summits in June 2010, agreed to reinforce their efforts to meet the Millennium Development Goals, including through the use of ODA.[8] The G-8 members, in cooperation with a number of other Governments, international foundations and health organizations, launched the Muskoka Initiative to accelerate progress towards Goals 4 and 5. Significantly more than $10 billion is expected to be mobilized through the Initiative over the period 2010 to 2015.

[8] G-20 Toronto Summit Declaration, 26 and 27 June 2010, available from http://g20.gc.ca; and G-8 Muskoka Declaration: Recovery and New Beginnings, Muskoka, Canada, 25 and 26 June 2010.

II. Strengthening the international financial architecture

17. The international community has continued its efforts to overhaul financial regulation and supervision, as well as to review the mandate and responsibilities of the International Monetary Fund (IMF) over surveillance, financing and stability of the international monetary system, including the international reserve system. In addition, there have been further developments in governance reform of international financial institutions to enhance their legitimacy, credibility and effectiveness.

A. Reform of financial regulation

18. The financial crisis has demonstrated an urgent need to significantly improve financial regulation and supervision to achieve global financial stability. In this regard, the Conference on the World Financial and Economic Crisis and Its Impact on Development called for expanding the scope of regulation and supervision and making it more effective with respect to all major financial centres, instruments and actors.

19. The major step in the reform process is the modification of the Basel II framework for capital and liquidity regulation. The package of reform proposals was released in December 2009 and its gradual implementation is expected to start at the end of 2012. It has been agreed that phase-in arrangements to adopt the new standards should reflect different national starting points and circumstances.[9]

20. According to the proposals, the level, quality, consistency and transparency of bank capital will be raised. Market pressure and bank supervisors have already forced banks to increase their capital and liquidity buffers beyond those required by the current Basel II framework. Nevertheless, significantly higher formal minimum capital requirements are considered necessary to help contain any return to the unacceptably low pre-crisis capital and liquidity levels when financial conditions return to normal and competitive pressures reassert themselves.

21. There is also an agreement to introduce a leverage ratio, that is a cap on the amount of assets a bank can have in relation to its equity. This is seen as a supplementary backstop to the risk-based capital framework. In addition, there will be higher capital charges related to bank trading activities, complex securitizations and derivatives.

22. Along with more and better capital to absorb unexpected losses, the Basel Committee on Banking Supervision has proposed a global liquidity standard that would require banks to better match the maturities of their assets and liabilities. Another feature of this standard is the requirement for banks to hold a sufficient stock of high-quality liquid assets to allow them to survive a 30-day loss of access to funding markets.

23. Higher capital requirements would force banks to raise additional capital. In this regard, there have been concerns that this may have a negative impact on the ability of banks to lend and result in somewhat slower global growth, at least in the short term. However, according to preliminary findings of a group of experts drawn

[9] G-20 Toronto Summit Declaration.

by the Bank for International Settlements from 14 countries, the European Central Bank, the European Union and the Bank itself, the impact on gross domestic product (GDP) is likely to be mild and much less than existing GDP forecast errors. At the same time, these modest costs will likely be offset by reduced volatility in GDP, less frequent crises and lower risk premiums.[10] Nevertheless, revised standards and their implementation should be flexible enough to take into account domestic circumstances. In particular, special attention needs to be given to the characteristics, depth and capacity of local financial markets in developing countries.

24. In addition, work is under way to achieve a single set of global accounting standards and on internationally consistent implementation of agreed measures to improve transparency and introduce regulation and supervision of hedge funds, credit rating agencies, compensation practices and over-the-counter derivatives. Close cooperation and coordination among numerous national and international regulatory and standard-setting bodies is important to ensure coherence and consistency of financial reform measures and to assess the costs and benefits of the proposed changes.

25. Macroprudential regulation is supposed to deal with two major issues: the procyclicality of the financial system, and systemic risk and moral hazard caused by systemically important financial institutions that are considered "too big to fail". To address procyclicality, the Basel Committee has proposed, beginning with large and connected financial firms, building up additional countercyclical buffers through a combination of countercyclical capital charges, forward-looking provisioning and capital conservation measures. These buffers should be built up in good times and run down in bad, allowing the financial system to absorb emerging strains more easily and dampen amplification mechanisms.

26. In the treatment of systemic institutions that are "too big to fail", work is under way on a harmonized international regulatory framework for internationally active banks. This is considered one of the major concerns of regulatory reform, as the crisis has demonstrated an alarming disparity between the global activities of these banks and the constraints of mostly national regulation. The starting point is to identify systemically important institutions, as size is not always the sole indication of systemic relevance. Interconnectedness, substitutability and the state of the markets are also essential factors. However, no agreement has yet been reached on the issue.[11]

27. As for ensuring the safety and soundness of globally active financial institutions, the reform of the Basel II framework and resulting improvement of the capacity of systemically important institutions to absorb losses are considered to be only part of the solution to this problem. Other proposed measures include systemic-risk-based capital surcharges and levies that are related to the contribution of institutions to systemic risk, enhanced on-site supervision, harmonized enforcement

[10] "Current efforts to enhance global financial supervision", remarks by Stephen Cecchetti, Economic Adviser and Head of the Monetary and Economic Department, Bank for International Settlements, at the Federal Reserve Bank of San Francisco Asia Banking and Finance Conference, 7 and 8 June 2010, available from www.bis.org.

[11] "The G20 agenda on financial regulation", speech by Axel A. Weber, President of the Deutsche Bundesbank, at the International Conference on Financial Market Regulation, Berlin, 19 May 2010, available from www.bundesbank.de.

activities and strengthened supervisory cooperation and coordination, including supervisory colleges.

28. Another important focus of reform is the development of legal and policy frameworks for cross-border resolution that should allow institutions of all types and sizes to fail without putting the rest of the financial system or the taxpayers at risk. Some alternative solutions that may gain broader acceptance include placing restrictions on certain business activities and on the size and structure of financial firms that would make all institutions resolvable without adverse systemic implications.

29. Options to devise a fair and substantial contribution from the financial sector to fund the fiscal costs of financial failures are also being explored internationally. The discussion was initially centred around the imposition of levies and taxes on financial institutions, but global bank taxation lacked the necessary support. Accordingly, it is now recognized that there is a range of policy options and that countries are pursuing different approaches.[12]

30. The crisis has shown that monetary and fiscal policies also matter in helping to mitigate the build-up of financial imbalances. According to many observers,[13] along with controlling inflation, monetary policy should take better account of asset prices and credit booms. Fiscal policy must play a supporting role in a financial stability framework. While the major goal of fiscal policy is countercyclical demand management, it should also take into account the need to build fiscal buffers in good times that allow a response to financial system stress.

B. Multilateral surveillance and policy coordination

31. The IMF has recognized that, while the outside world has changed, the surveillance carried out by the Fund and its members has not changed much since the late 1970s.[14] The crisis has, however, forcefully demonstrated that in a world of integrated capital markets and interconnected national financial sectors the status quo is no longer acceptable. A key goal in reform is therefore to strengthen multilateral surveillance and enhance the coverage and depth of analysis of financial sector issues and policies. To promote global stability, surveillance activities by IMF need to pay more attention to policy spillovers, especially those of countries that are systemically important. Surveillance at the country level remains fundamental but no longer suffices. Assessing international coherence and promoting coordination among national policies should become a central objective of the collaboration.

32. According to the IMF Independent Evaluation Office, most members support a greater direct Fund involvement in international policy coordination and spillover analysis.[15] However, the role of the Fund is not well defined and, therefore, it is

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[12] G-20 Toronto Summit Declaration.

[13] See, for instance, "Towards a global financial stability framework", statement by Hervé Hannon, Deputy General Manager, Bank for International Settlements, at the forty-fifth SEACEN Governors' Conference, Cambodia, 26 and 27 February 2010, pp. 19-23, available from www.bis.org.

[14] IMF, "Modernizing the surveillance mandate and modalities", 26 March 2010, p. 4, available from www.imf.org.

[15] IMF, Independent Evaluation Office, "IMF interactions with member countries", 25 November 2009, p. 34, available from www.imf.org.

considered useful to clarify what is expected of the Fund and its membership to preserve systemic stability, including key modalities, procedures and outcomes. There have been suggestions to discuss the possibilities of producing reports on outward spillovers for countries whose policies or circumstances may significantly affect the stability of the system, as well as of holding multilateral consultations, as needed, on specific topics that have systemic implications in order to foster collaboration and collective action.[16] One such topic could be the growing developed country sovereign risks which, according to IMF, have become the newest threat to the global financial system.[17] It is considered necessary to strengthen surveillance of developed country fiscal policies and their impact on international interest rates, exchange rates and capital flows, including private and public financing in developing countries.[18]

33. Thus far, the major attempt at the highest political level to take account of multilateral dimensions when setting national policies has been made outside of the surveillance process at IMF. At their summit in Pittsburgh in September 2009, G-20 leaders announced the Framework for Strong, Sustainable and Balanced Growth and committed themselves to submitting their actions to peer review in a mutual assessment process. The first stage of the assessment process was completed before the G-20 summit in Toronto.

34. The IMF has been asked to assist this effort by providing an analysis of how the G-20 policies fit together and whether those policies are consistent with more sustainable and balanced global growth. This holds out some prospects of greater engagement by systemically important countries with the Fund, including in ways that are representative of the whole IMF membership who are affected by spillovers from the process. Also, the involvement of the Fund in the mutual assessment process could inform the discussion on surveillance reform.

35. The substitution of the G-20 for the G-8 as the major forum for global discussions on international economic cooperation is a welcome development. However, the majority of United Nations Member States are still excluded. It is necessary for the G-20 process to develop greater legitimacy, including through forging stronger institutional linkages with non-member States and developing constructive dialogue with universal international bodies, such as the United Nations, to ensure that the views and concerns of all countries, especially the poorest, are taken into account.

36. An initiative aimed at developing such a dialogue on coordination and cooperation between G-20 and non-G-20 members is the formation of the informal Global Governance Group, comprising 24 United Nations Member States. The Group underscores that, given the complexities and interdependencies of the global economy, it is important for the G-20 to be consultative, inclusive and transparent in its deliberations for its outcomes to be effectively implemented on a global scale. The Group has put forward several ideas on how to improve engagement between

[16] IMF, "Executive Board discusses modernizing the surveillance mandate and modalities and financial sector surveillance and the mandate of the Fund" (22 April 2010), available from www.imf.org.

[17] James Rowe, "Government borrowing is rising risk to world financial system", *IMF Survey* online, 20 April 2010, available from www.imf.org.

[18] IMF, International Monetary and Financial Committee, 21st meeting, 24 April 2010, statement by Zhou Xiaochuan, Governor, People's Bank of China, available from www.imf.org.

the G-20 and the United Nations through regular and predictable channels. It has also proposed to allow non-G-20 countries to participate in G-20 ministerial gatherings and senior level and expert working groups on specialized issues (see A/64/706, annex).

37. Achieving more sustainable and balanced global growth will also require close coordination of macroeconomic policy decisions with other areas of global governance, including those related to the multilateral trading system; aid architecture; the poverty eradication and sustainable development agenda; and climate change. No specific mechanism to promote coherent policy responses to these interdependent issues exists at present. A strengthened United Nations framework for enhancing coordination and complementarity should be at the centre of efforts to bridge this gap. For instance, there has been a proposal to create within the United Nations a global economic coordination council, which would promote development, seek consistency of policy goals and policies of major international organizations and support consensus building among Governments on efficient and effective solutions for global economic, social and environmental issues.[19]

38. The global financial crisis has revealed the critical importance of enhancing the coverage and depth of analysis of financial sector issues in Fund surveillance. It has been recognized that to better understand and assess the risks of transmission of macrofinancial instability across countries, the Fund would need closer engagement with members with systemically important financial sectors and also with large and complex financial institutions. It has also been suggested to make the Financial Sector Assessment Programme a mandatory part of surveillance, at least for systemically important countries.

39. Financial sector surveillance is not the purview of IMF alone. There is a need for closer collaboration with the Financial Stability Board, the Bank for International Settlements and financial sector standard-setting bodies. The enhanced collaboration should help to avoid excessive duplication, as well as to develop division of labour and a clearer delineation of responsibilities with each party making the most of its comparative advantage.

40. There is also a need to revise analysis and policy prescriptions in cross-border capital flows. Low interest rates and highly liquid conditions in developed countries, the result of monetary policy measures undertaken to forestall the crisis, have led to surges of capital flows to many emerging market economies with comparatively higher interest rates and stronger growth outlook. Sudden inflow surges complicate macroeconomic management and may lead to inflation and asset price bubbles. Also, there are risks of abrupt stops or reversals in those flows. When macroeconomic and prudential policy measures to deal with the problem are not sufficient, it is deemed appropriate to consider imposing controls on capital inflows.[20]

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[19] United Nations, "Report of the Commission of Experts of the President of the United Nations General Assembly on reforms of the international monetary and financial system", 21 September 2009, paras. 25 and 26, available from www.un.org.

[20] "Early warning systems and their role in surveillance", keynote address by Takatoshi Kato, Deputy Managing Director, IMF, at a high-level seminar in Singapore, 9 February 2010, available from www.imf.org.

41. The Fund could provide much needed multilateral perspective on the issue by advising both capital-exporting and capital-importing countries on economic policy choices necessary for ensuring orderly capital flows. Such a multilateral platform on managing capital flows will be an appropriate response to the current crisis, which underscored once again the capriciousness of capital flows.

42. Despite expanding the Fund's surveillance mandate there is a general concern that surveillance does not have enough traction in member countries and IMF surveillance can only be effective to the extent that members are cooperative and responsive. The challenge is to ensure that, going forward, the international community will be more willing and able to respond to global risks in a more coordinated fashion.

C. Global financial safety net

43. Alongside prudential regulation and surveillance, an effective global financial safety net is an important backstop for the preservation of global economic and financial stability. The multilateral safety net was strengthened significantly during the recent crisis through $350 billion in capital increases for the multilateral development banks, reform of IMF credit facilities and the commitment to treble IMF resources. The Fund's role is increasingly seen as a provider of insurance-like crisis prevention facilities amid volatile cross-border capital flows and the risk of contagion.[21] In March 2009, the Fund introduced the flexible credit line to provide timely and upfront support with no ex-post conditions to countries with sound economic fundamentals and policies. There is ongoing discussion on how to make the flexible credit line more useful, including by extending its duration and scope and by making qualification more predictable.

44. For those countries that do not qualify for the flexible credit line but have only moderate vulnerabilities there have been proposals to develop an effective contingent crisis-prevention instrument with elements of predictability and automaticity by modifying the existing high access precautionary arrangement. This new crisis prevention instrument, the precautionary credit line, would provide upfront access to financing as in the flexible credit line, but would allow for some policy conditionality. However, there have been some concerns that the introduction of the precautionary credit line may reduce the attractiveness of the high access precautionary arrangement, increase the complexity of the lending toolkit and lead to an undesirable segregation of members.[22]

45. Another more ambitious proposal, discussed at IMF, calls for the creation of a central-bank-like mechanism, a multi-currency swap line. This mechanism would complement central bank swap facilities by protecting countries from systemic liquidity shock. Given the global reach of systemic crisis and the ad hoc nature of national central bank responses there may be a case for a global, transparent and predictable standing liquidity facility.

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[21] See, for instance, "Systemic challenges for global finance and priorities for reform", remarks by John Lipsky, First Deputy Managing Director, IMF, at a seminar on 18 May 2010, available from www.imf.org.

[22] IMF, "The Fund's mandate: future financing role", Public Information Notice No. 10/51, 22 April 2010, available from www.imf.org.

46. To effectively anchor the global financial safety net, IMF needs adequate financing. In 2009, it was decided to triple its resources to over $850 billion. However, this amount as a share of global GDP is still smaller than it was when the Fund was created, as the Fund's quota-based resources have not kept pace with developments in the world economy. As a result, supporting its members during the recent crisis required recourse to bilateral loan agreements and prompted the expansion of the new arrangements to borrow.

47. The Fund is a quota-based institution, and quotas should be its primary resource. Consequently, the outcome of the fourteenth general quota review, scheduled to be completed in January 2011, should restore the central role of general resources through a substantial increase in IMF quotas. Such an increase would be consistent with the expansion of world GDP, trade and financial flows since the last general quota review in 1998.

48. In exceptional crisis situations, like the one recently experienced, IMF can and should resort to borrowed resources, be they bilateral, or preferably multilateral, through the expanded and enlarged new arrangements to borrow. The new and expanded arrangements should be seen as a backstop against extreme situations and not as a major source of Fund resources. Their activation must remain the exception, not the rule. In this regard, it has been suggested that part of the next quota increase may come from a conversion of contributions to the new arrangements to borrow into quotas.[23]

49. A broader financial safety net at the global level also includes self-insurance through reserve accumulation, bilateral foreign exchange swap arrangements among major central banks and regional reserve pools. There have been discussions on how to improve the coordination and collaboration among IMF, central banks and regional financial arrangements in case of market stress. For instance, during the current crisis, Latin American regional and subregional financial institutions played a significant role in the region by providing credit under more flexible conditions, particularly in helping to finance liquidity needs of small countries. The Chiang Mai Initiative Multilateralization Agreement between members of the Association of Southeast Asian Nations plus China, Japan and the Republic of Korea for a total of $120 billion credit lines, which was developed from the Chiang Mai Initiative bilateral swap network, came into effect in March 2010. It has also been emphasized that the recent actions taken to strengthen economic and financial stability in the euro area by using a combination of insurance options may be a model for future cooperation.[24]

50. To address sovereign risk, European leaders announced on 10 May 2010 the establishment of a European financial stabilization mechanism that would be based on up to $77 billion in European Union funding and a special purpose vehicle that could raise up to $568 billion in additional funds in capital markets with guarantees provided by the euro-area member Governments. The IMF agreed to cooperate with the European Union, if requested by euro-area members. Total available support through loans and credit lines, including potential IMF loans to member countries (up to $284 billion), could be as large as $930 billion. Upon request in individual country cases, IMF is ready to provide financial assistance in parallel with the

[23] IMF, International Monetary and Financial Committee, 21st Meeting, 24 April 2010, statement by Guido Mantega, Minister of Finance of Brazil, available from www.imf.org.

[24] IMF survey online, 11 May 2010, available from www.imf.org.

European Union, similar to co-financing already provided to Hungary, Latvia, Romania and Greece.

51. To address market liquidity, the European Central Bank announced that it was prepared to purchase Government and private debt securities. The Bank also expanded its liquidity provision facilities. In addition, to forestall an emerging shortage of dollar liquidity, the United States Federal Reserve reopened temporary United States dollar liquidity swap lines with the European Central Bank and other major central banks.

52. The initiatives to strengthen the global safety net are unlikely to radically change incentives for countries to accumulate reserves that remain their first line of defence against potential shocks. Reserve accumulation has been an effective option for emerging market economies to protect them from the crisis. During the crisis, central banks in many emerging and some developed countries used part of their reserves to ease domestic tensions created by dollar liquidity shortages. It is hardly possible that, in the foreseeable future, countries will have automatic access to a sufficient quantity of foreign currency funding to cope with a major crisis. Consequently, countries will continue holding some reserves of their own and it has been argued that there are strong indications that reserve accumulation will persist, or even be amplified, following the crisis.[25] The practice of relying to varying degrees on a mix of complementary self-insurance and bilateral and multilateral agreements will likely continue.

D. International reserve system

53. At its meeting in April 2010, the International Monetary and Financial Committee called on IMF "to study the policy options to promote long-term stability and the proper functioning of the international monetary system".[26] Much of the debate surrounding the international monetary regime in which one national currency, the United States dollar, serves as a primary international reserve asset. According to many observers, the current international reserve system was an important element in the absence of smooth adjustment to imbalances, volatile capital flows and lopsided provision of liquidity.[27] The need to reform the international reserve system is now broadly acknowledged.

54. There have been suggestions to move towards a system based on several, competing national currencies performing reserve functions on a more or less equal footing. However, there are few alternatives, if any, that are readily available to assume a reserve role comparable to that of the United States dollar. Besides, such a system may result in even higher exchange rate volatility owing to the possibility of

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[25] "An international financial architecture for the twenty-first century: some thoughts", remarks by Jean-Pierre Landau, Second Deputy Governor of the Bank of France, at the seventeenth Central Banking Seminar of the Bank of Korea, Seoul, 1 June 2010, p. 6, available from www.bis.org.

[26] Communiqué of the twenty-first meeting of the International Monetary and Financial Committee of the Board of Governors of the International Monetary Fund, 24 April 2010, available from www.imf.org.

[27] See, for instance, concluding remarks by Dominique Strauss-Kahn, IMF Managing Director, at the High-level Conference on the International Monetary System, Zurich, Switzerland, 11 May 2010, available from www.imf.org.

sharp shifts of international demand from one international currency to another, since they are likely to be close substitutes.

55. A more modest solution could be for countries with surplus savings to expand the range of their own safe and liquid financial assets available to domestic and international investors. This would raise efficiency of domestic financing, provide investors with a broader range of choices and reduce incentives to export capital in order to protect its value. Another option is the introduction of a new global reserve currency issued by a global central bank. The establishment of a full-fledged international currency, though, requires far-reaching changes, including giving up national sovereignty over key issues of economic policy, which the international community is not yet ready to make. Nevertheless, the international community should continue discussions on future needs and parameters of the global financial system.

56. A more realistic way of reform may be to broaden existing arrangements for special drawing rights (SDRs) which could over time evolve into a widely accepted world reserve currency. This may also require broadening the composition of the SDR basket to make it more representative. All the component currencies, however, should be fully convertible and have well-developed financial markets. Along with reducing the inherent instability of the current system, the greater use of SDRs may result in more democratic control of global liquidity.

57. In August 2009, for the first time since the late 1960s, IMF member Governments took a decision on a general SDR allocation by IMF equivalent to $250 billion. This will be complemented by a network of voluntary arrangements allowing SDRs to be effectively traded between members. Together with the special one-time allocation of about $33 billion in September 2009, the outstanding stock of SDRs increased nearly tenfold from about $33 billion to about $321 billion.[28] Nevertheless, after this increase, SDRs represent less than 5 per cent of global foreign exchange reserves. As not all members need to increase their international reserves, the Fund should explore mechanisms to redistribute SDRs to countries most in need, especially in times of crisis. There is also merit in making SDR allocations when a crisis occurs, with subsequent cancellation once the crisis has passed. The crisis allocations should not be linked to individual country situations, but to systemic risk stemming from liquidity shocks of global or regional scale.

58. For SDRs to take on a significant role, their issuance should be done on a regular basis and possibly linked to the estimated additional long-term demand for foreign reserves. Their use in international trade and financial transactions, as well as in a functioning settlement system to facilitate the direct exchange of SDR claims into all constituent currencies, needs to be enhanced. Thus far, a private SDR market has not taken off. Reaching a critical mass that would allow the development of a deep, diversified and liquid market for SDR instruments would likely be impossible without strong support from the public sector. This can involve some actions that were used to foster the development of the European currency unit market, including issuing SDR-denominated debt by national Governments and multilateral institutions.[29]

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[28] IMF Fact sheet, "Special drawing rights", January 2010, available from www.imf.org.

[29] "The global crisis and the future of the international monetary system", speech by Fabrizio Saccomanni, Director General of the Bank of Italy, at the Chinese Academy of Social Sciences, Beijing, 15 April 2010, available from www.bis.org.

59. Additionally, it may be necessary to establish at IMF SDR-denominated reserve accounts that would allow large reserve holders to exchange their currency reserves for SDR-denominated securities and deposits, without undesirable exchange rate effects. The resulting shift of the exchange rate risk from the original holders of currency reserves to other parties will require an agreement on an appropriate burden-sharing arrangement. This issue was discussed when the substitution account was negotiated within IMF more than a quarter of a century ago.

60. Past experience suggests that any reform of the current international reserve system should be a part of a broader framework. Indeed, it is not likely that any feasible reform would bring about smooth and automatic balance of payments adjustment. For instance, it has been argued that while reserve alternatives would increase pressure on the United States to adjust, incentives for the surplus countries would not change much.[30] Therefore, along with moving towards greater reserve options, policy dialogue and cooperation aimed at more balanced and sustainable global growth will still remain indispensable.

E. Governance reform at the Bretton Woods institutions

61. Addressing global economic governance issues is a prerequisite for all other changes in the international financial architecture. International financial institutions need a more representative, responsive and accountable governance, reflecting the realities of the twenty-first century. Both IMF and the World Bank have taken important steps to redress imbalances in terms of voice and representation.

62. At its meeting in October 2009, the International Monetary and Financial Committee agreed to shift at least 5 per cent of aggregate quota shares in IMF from developed to developing and transition economies using the current quota formula as the basis, and reiterated its commitment to protect the voting share of the poorest members. The quota review should be completed before January 2011. Other governance reforms are under way, including greater political involvement in the strategic oversight of IMF; the Executive Board composition and size and ways of enhancing its effectiveness; voting procedures, including special majorities; selection of senior management; and staff diversity.

63. Aligning quota shares with weight in the world economy is the principal governance challenge for IMF. Many issues still need to be resolved, including differences related to the broad goals of quota realignment. Indeed, it is not yet clear whether the shift in quota shares should be only to dynamic emerging market and developing countries or to all underrepresented countries. Also, there is no consensus on the size of the shift. In this regard, many developing countries are of the view that the shift should be of at least 7 per cent. Moreover, there is no clarity on how to protect the voting power of poorest countries — by a further increase in basic votes or through ad hoc quota allocations. Finally, there is no clarity on how many countries should be protected — all Poverty Reduction and Growth Facility eligible countries or a smaller group.

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[30] "The evolution of the international monetary system", remarks by Mark Carney, Governor of the Bank of Canada, to the Foreign Policy Association, New York, 19 November 2009, available from www.bis.org.

64. There is also no agreement on whether or not the present quota formula could be used without modifications. According to many members, the current quota formula falls short of the objective to achieve legitimate representation in the Fund based on a country's economic weight.[31] Accordingly, there have been calls to address the deficiencies in the present formula before it is used as a guide for quota realignment.[32] In particular, there have been proposals to assign a higher weight to GDP, preferably at purchasing power prices, to better reflect the growing role and contribution to global growth of emerging market and developing countries. Many developing countries also insist on adjustments to the measures of variability and openness. Some countries, however, see no merit in reopening the quota formula at this stage as this may significantly delay the completion of the quota and governance review. They support the use of the current formula as the sole basis to determine whether a country is over- or underrepresented.

65. Reaching agreement on these issues requires political will and the strong support of the entire membership to translate reform commitments into reality. Indeed, the very modest 2008 IMF quota and voice reform, which will basically lead to a quota redistribution among the group of emerging market and developing countries, has not yet gone into effect. As at April 2010, only 70 out of the required 112 members, representing 73 per cent of the total voting power (85 per cent is required), had accepted the proposed amendment to the Articles of Agreement to enhance voice and participation in the Fund.[33]

66. The agreement on the second phase of governance reform for the World Bank Group[34] was reached during the World Bank-IMF spring meetings in April 2010. According to the agreement, there will be a small shift in voting power to developing and transition countries in the International Bank for Reconstruction and Development (IBRD), the International Finance Corporation (IFC) and the International Development Association (IDA). For IBRD, the voting power of developing and transition countries was increased by 3.13 per cent, bringing it to 47.19 per cent (representing a total shift of 4.59 per cent since 2008). For IFC, an increase in basic votes and selective capital increase representing a shift of 6.07 per cent (bringing the total to 39.48 per cent) was endorsed. For IDA, the voting share of developing countries would be raised from 40 per cent prior to the start of the reforms to around 46 per cent. These reform targets fall short of the recommendation of the High-level Commission on Modernization of World Bank

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[31] See, for instance, International Monetary and Financial Committee, 21st meeting, 24 April 2010, statement by Timothy F. Geithner, Secretary of the Treasury, United States, available from www.imf.org.

[32] Intergovernmental Group of Twenty-four on International Monetary Affairs and Development, Communiqué, 22 April 2010, available from www.g24.org.

[33] IMF, "Executive Board progress report to the IMFC: the reform of Fund governance", p. 1, 21 April 2010, available from www.imf.org.

[34] The initial package of reforms (phase 1) adopted in 2008 concentrated mainly on the International Bank for Reconstruction and Development and included the doubling of basic votes and the allocation of authorized but unallocated shares to 16 developing and transition countries whose voting power would be reduced by the increase in basic votes. The phase 1 reforms will increase voting power of developing and transition countries in IBRD from 42.6 per cent to 44.1 per cent. It was also decided to add an elected Executive Director for sub-Saharan Africa on the World Bank Group boards.

Group Governance that the balance in voting power in the World Bank should be evenly split between developed and developing countries.[35]

67. At the World Bank-IMF 2010 spring meetings, ministers also reaffirmed their commitment to continue moving over time towards equitable voting power at the World Bank, while protecting the voting power of the smallest poor countries. The next shareholding review is scheduled for 2015. Accordingly, it has been decided to establish a work programme to arrive at a dynamic formula that reflects primarily the evolving economic weight of countries and the development mission of the Bank. Along with the shareholding review, work is under way at the Bank on strengthening Board effectiveness and internal governance, deepening responsiveness to the views of developing and transition countries on development and a merit-based and transparent process for the selection of the President of the Bank.

III. Conclusions

68. The level of net financial transfers of developing countries was notably lower in 2009, reflecting a disorderly unwinding of macroeconomic imbalances. With persistent structural problems underlying the imbalances, the current path of economic recovery is expected to result in an increase in net outward transfers from developing countries.

69. The evolving regulatory framework needs to take due account of systemic risk and the overall stability of the financial system. Financial regulation should be both flexible enough to take into account domestic circumstances and internationally consistent, moving away from regulatory fragmentation.

70. Multilateral surveillance remains at the centre of the crisis-prevention efforts. Along with country-level analysis, it should provide greater coverage of macrofinancial issues, capital flows and systemic risks, including closer examination of members and institutions that are critical for global stability. Assessing international coherence and promoting coordination among national macroeconomic policies should become a chief objective of the multilateral cooperation.

71. There is also a need for close coordination of macroeconomic policy decisions with other areas of global governance. The United Nations has a prominent role to play in ensuring coherent policy responses to interrelated global challenges that cut across the social, environmental and economic spheres.

72. In terms of global financial stability, it is vital to further strengthen the global financial safety net. A critical issue is to find an appropriate balance and develop effective coordinating mechanisms between multilateral, regional and bilateral arrangements and self-insurance.

73. It is important to continue deliberations on the merits and feasibility of moving to a more balanced and stable global reserve system, including an enhanced role for SDRs.

74. The ongoing reform of the governance structures of the international financial institutions offers an opportunity to make important progress on this critical issue. To turn this opportunity into reality, a strong political commitment of Member States is crucial.

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[35] "Repowering the World Bank for the 21st century", report of the High-level Commission on Modernization of World Bank Group Governance, October 2009, available at www.worldbank.org.

Annex

Net transfer of financial resources to developing economies and economies in transition, 1998-2010

(Billions of United States dollars)

	1998	*1999*	*2000*	*2001*	*2002*	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010[a]*
Developing economies	-40.9	-128.5	-195.4	-164.8	-210.4	-305.1	-380.2	-599.1	-806.6	-872.4	-882.7	-513.3	-641.2
Africa	11.4	0.1	-32.5	-17.9	-5.5	-19.7	-36.2	-79.7	-109.0	-102.4	-108.9	6.1	-33.3
Sub-Saharan Africa (excluding Nigeria and South Africa)	10.6	7.1	2.2	5.7	4.0	5.6	3.3	-3.1	-12.8	-9.3	-1.6	23.7	18.3
Eastern and southern Asia	-128.4	-138.8	-123.3	-119.7	-148.2	-174.4	-182.2	-264.4	-383.9	-519.9	-475.9	-422.3	-438.0
Western Asia	34.5	2.7	-35.3	-29.7	-23.2	-46.7	-76.3	-143.7	-175.6	-144.0	-222.5	-48.4	-112.7
Latin America	41.6	7.5	-4.3	2.5	-33.6	-64.3	-85.5	-111.3	-138.1	-106.1	-75.4	-48.7	-57.3
Economies in transition	0.8	-25.1	-51.5	-32.9	-27.9	-38.0	-62.4	-95.8	-117.1	-96.4	-151.2	-79.6	-126.2
Memorandum item													
Least developed countries	13.7	11.5	6.2	9.4	7.6	9.2	6.4	2.2	-7.0	-4.4	-3.1	27.2	18.4

Sources: Department of Economic and Social Affairs of the Secretariat, based on the *World Economic Outlook April 2010: Rebalancing Growth* (Washington, D.C., International Monetary Fund, 2010) and IMF balance of payments statistics.

[a] Partially estimated.

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Item 69 (a) of the provisional agenda*
Promotion and protection of human rights: implementation of human rights instruments

Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

Note by the Secretary-General

The Secretary-General has the honour to submit to the General Assembly the report of the chairs of the human rights treaty bodies on their twenty-second meeting, held in Brussels on 1 and 2 July 2010, pursuant to General Assembly resolution 57/202.

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Report of the chairs of the human rights treaty bodies on their twenty-second meeting

Summary

The General Assembly, in its resolution 57/202, requested the Secretary-General to submit to the Assembly the reports of the persons chairing the human rights treaty bodies on their periodic meetings. The present document contains the report on the twenty-second meeting of the chairs of the human rights treaty bodies, which was convened on 1 and 2 July 2010 in Brussels, pursuant to Assembly resolution 49/178. The meeting of the chairs was held for the first time outside of Geneva, with a view to bringing treaty bodies closer to the implementation level and raising awareness at the regional level of their work so as to strengthen linkages and enhance synergies between international and regional human rights mechanisms and institutions. The chairs considered the follow-up to the recommendations of the twenty-first meeting and reviewed developments relating to the work of the treaty bodies. The chairs also met with institutions of the European Union, including the European Commission, the European Parliament and the Council of the European Union, as well as the European Union Agency for Fundamental Rights. In addition, they met with institutions of the Council of Europe, including the European Court of Human Rights, and with representatives of civil society organizations and academia to discuss the applicability of the United Nations human rights treaties to European Union actions, and the role of the European Union in promoting implementation of and follow-up to the recommendations of United Nations treaty bodies. The chairs adopted recommendations, which are contained in section VII of the present report. The reports on the tenth and eleventh inter-committee meetings of the human rights treaty bodies, held in Geneva from 30 November to 2 December 2009 and 28 to 30 June 2010, respectively, that were considered by the chairs are annexed to the present report.

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I. Introduction

1. The twenty-second meeting of the chairs of the human rights treaty bodies, convened pursuant to General Assembly resolution 49/178, was held in Brussels on 1 and 2 July 2010. The meeting was preceded by the tenth and eleventh inter-committee meetings of the human rights treaty bodies, held from 30 November to 2 December 2009 and 28 to 30 June 2010, respectively. The meeting of the chairs was held for the first time outside of Geneva, with a view to bringing treaty bodies closer to the implementation level and raising awareness at the regional level of their work so as to strengthen linkages and enhance synergies between international and regional human rights mechanisms and institutions. The regional office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Brussels facilitated the meeting.

II. Organization of the meeting

2. The Chairs of the following bodies attended: the Committee on Economic, Social and Cultural Rights (Jaime Marchan Romero); the Human Rights Committee (Yuji Iwasawa); the Committee on the Rights of the Child (Yanghee Lee); the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (Abdelhamid el-Jamri); the Committee against Torture (Claudio Grossman); the Committee on the Elimination of Discrimination against Women (Naela Gabr); the Committee on the Elimination of Racial Discrimination (Anwar Kemal); the Committee on the Rights of Persons with Disabilities (Ronald Clive McCallum); and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Victor Manuel Rodriguez Rescia).

3. Yanghee Lee was elected Chair-Rapporteur and Ronald Clive McCallum was affirmed Vice-Chair. The chairs adopted the agenda on the basis of the provisional agenda and annotations (HRI/MC/2010/1) and proposed programme of work.

III. Meeting with civil society representatives and academia

4. The chairs met with a number of non-governmental organizations.[1] Academics, including from Lancaster University and the Catholic University of Leuven, also participated in the meeting.

5. Participants welcomed the initiative to hold the meeting of the chairs at the regional level and expressed the hope that similar meetings would also be held in other regions in the future. The meeting of the chairs was described as a unique opportunity to bring the work of the United Nations human rights treaty bodies closer to the implementation level, and to discuss achievements noted and

[1] These included Amnesty International, December 18, the European Disability Forum, the European Union Network on Migration and Development (EUNOMAD), Eurochild, the European Roma Information Office, the European Network against Racism, the European Women's Lobby, Inclusion Europe, Front Line: International Foundation for the Protection of Human Rights Defenders, Human Rights Watch, the International Federation for Human Rights, the International Lesbian and Gay Association, the International Rehabilitation Council for Torture Victims, the Mental Disability Advocacy Center, Mental Health Europe, the Platform for International Cooperation on Undocumented Migrants and Terre des Hommes.

challenges faced by stakeholders in the European region in implementing and monitoring the recommendations of the treaty bodies. Discussions revolved around two main themes: the applicability of the United Nations human rights treaties to European Union action and its consequences for European Union policymaking, legislation and practical work; and the role of the European Union in promoting the implementation of and follow-up to the recommendations of the United Nations treaty bodies.

6. The chairs welcomed the historic decision by the European Union to ratify the Convention on the Rights of Persons with Disabilities, and expressed the hope that the instrument of ratification would be deposited shortly. Academics and civil society organizations stressed that, while all member States of the European Union were parties to six of the nine core international human rights treaties,[2] European Union compliance with international human rights standards needed to be further enhanced. The scope of States parties' obligations under the Charter of Fundamental Rights of the European Union was deemed narrower than under international law, focusing on the obligation to respect and paying less attention to the protection and promotion of human rights. In the view of some participants, the Charter of Fundamental Rights, while an important development in the European Union's human rights framework, did not encompass all of the rights enshrined in the international human rights instruments.

7. Academics and civil society organizations indicated that European Union member States, while remaining parties to most international human rights instruments, had increasingly delegated powers to the European Union, which constituted a challenge for monitoring the compliance with international standards by individual member States. According to some participants, there was also a lack of coherence between internal and external European Union policies regarding the observance of the principles set forth in international human rights instruments by European Union member States and third countries.

8. In their address to the chairs, some participants highlighted the crucial role of the United Nations human rights treaty bodies in reminding European Union member States of their obligations under the treaties to which they were party, and stressed the need for a sustained campaign calling for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by European Union member States.

9. The chairs stressed the need for member States to increase protection of the rights of all migrants inside the European Union. The situation of undocumented migrants inside the European Union was referred to, as was the need to strengthen the procedures protecting their rights. Civil society organizations called for sustained efforts by member States to better mainstream a human rights-based approach in European Union migration policies.

10. The chairs called for more systematic references to the recommendations of United Nations human rights treaty bodies, both in internal and external European

[2] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child.

Union policies. They also recalled the instrumental role of civil society actors in reminding States parties of their obligations to report to the human rights treaty bodies, follow up on the implementation of their recommendations and disseminate the recommendations of treaty bodies to the public at large. On the other hand, the chairs acknowledged that treaty bodies should make more use of the contributions of civil society actors in their work.

IV. Meeting with representatives of institutions of the European Union and the Council of Europe

11. The chairs held a meeting with representatives of several institutions of the European Union, including the European Commission, the European Parliament and the Council of the European Union, as well as with the European Union Agency for Fundamental Rights and institutions of the Council of Europe, including the European Court of Human Rights.

12. Participants from the European Union institutions referred to the new European Union institutional framework that had followed the entry into force of the Treaty of Lisbon, and highlighted how it had enhanced the relationship between the various European Union institutions, including the European Court of Justice, and had reinforced the centrality of human rights in European Union activities. Further, the meeting discussed which institutional safeguards for the protection of human rights were in place in the European Union, and what the present deficiencies of the system were. In that regard, the need for greater and systematic reference to the international human rights instruments, as well as to the work of the human rights treaty bodies, was underlined. The discrepancy between the internal and external human rights policies of the European Union was also highlighted. Possible avenues for making international human rights obligations applicable to the European Union were discussed.

13. Representatives of the European Union institutions referred to instances in which the international human rights instruments and treaty body recommendations had been used as points of reference, for example in relation to the situation of persons with disabilities or the situation of Roma. They gave an overview of the different tools at their disposal to monitor and promote human rights in third countries. Those included human rights dialogues, human rights guidelines and the funding of development projects that might be subject to the compliance of external partners with eight of the nine core international human rights instruments.[3] In that regard, some representatives of the European Union institutions acknowledged that a certain degree of discrepancy existed between the European Union's internal and external human rights policies, and that it hampered to some extent the credibility of the European Union.

[3] The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

14. The meeting recalled the binding nature of the Charter of Fundamental Rights of the European Union following the entry into force of the Treaty of Lisbon, as well as the upcoming ratification by the European Union of the Convention on the Rights of Persons with Disabilities and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It was argued that those developments might lead to increased references to treaty body recommendations in the decisions of the European Court of Justice.

15. The chairs referred to the situation of undocumented migrants within the European Union and expressed concern about fast-track procedures applied to asylum-seekers, as well as the detention of unaccompanied children. The chairs stressed the need to uphold the principle of non-refoulement when diplomatic assurances were sought. The chairs further underlined the need for regional and international mechanisms to make use of cross-references in their respective work and raise awareness about issues of common concern. The chairs also encouraged ratification by individual European Union member States of the Optional Protocols to the Convention on the Rights of the Child and of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

V. Meeting with the Deputy Registrar of the European Court of Human Rights

16. The chairs met with Michael O'Boyle, Deputy Registrar of the European Court of Human Rights, with a view to exploring avenues to enhance cooperation between the United Nations human rights treaty bodies and the Court, including by seeking greater consistency in their respective jurisprudence.

17. The Deputy Registrar indicated that the areas of law examined by the Court were vast, and he called for greater interaction between regional and universal bodies. He further recalled that there were currently 47 States parties to the Convention for the Protection of Human Rights and Fundamental Freedoms and that the human rights issues raised by them varied considerably. Mr. O'Boyle indicated that the Court was increasingly dealing with issues relating to core rights, such as the effective investigation of criminal offences and torture, as well as with fundamental social questions, such as those related to freedom of religion.

18. Mr. O'Boyle underlined that, when deciding cases, it was a common practice of the Court's Grand Chamber to consult relevant pronouncements made by treaty bodies, including their views on individual cases and their general comments. In that connection, he recommended maintaining regular contacts between the universal and the regional systems. The Court already had regular contacts with national courts, for instance, by inviting senior national judges to meet Court judges in Strasbourg, France. One of the recurring themes for discussion in that context was the incorporation of the Convention into domestic law, which in some countries was still not adequately addressed.

19. The Chair of the Human Rights Committee referred to the five United Nations human rights treaty bodies that currently examined individual complaints. Among them, the Human Rights Committee examined approximately 100 cases per year. He stressed the importance of keeping consistency in international jurisprudence and avoiding fragmentation. In that regard, he referred to the views adopted by the

Human Rights Committee in Communication No. 1472/2006, *Sayadi and Vinck v. Belgium*, in which the Committee and the European Court of Justice had come to similar conclusions. That case illustrated how international human rights law could have an influence on European Union law. With regard to the Convention for the Protection of Human Rights and Fundamental Freedoms, the Chair of the Human Rights Committee stressed the similarities with the International Covenant on Civil and Political Rights and the fact that its monitoring body very much took into consideration the Court's jurisprudence. Still, there had been some instances in which both bodies had reached different interpretations of similar provisions, and others in which the divergent jurisprudence was in fact the result of differences between the texts of both the Convention and the Covenant.

20. The Deputy Registrar referred to the Court's jurisprudence on the exhaustion of domestic remedies, possible techniques to avoid conflicting jurisprudence when the same case was brought before both the Court and the Human Rights Committee, the responsibility of States under the Convention for actions conducted outside their territories, the process of reform engaged by the Court in order to cope with the approximately 120,000 cases it received per year and the functioning of the implementation mechanism of the Committee of Ministers.

VI. Meeting with the European Union Agency for Fundamental Rights

21. The chairs held a meeting with representatives of the European Union Agency for Fundamental Rights, who provided detailed information on the Agency's mandate and activities, which consisted essentially of providing assistance and expertise on fundamental rights issues to the European Union institutions and member States when they implemented European Union law; collecting, analysing and disseminating information and data on fundamental rights issues in the European Union; and promoting dialogue with civil society to raise public awareness of fundamental rights.

22. The representatives of the Agency provided examples of research it had undertaken, such as the European Union survey on minorities and discrimination, the European Union-wide survey on violence against women, and research projects on the fundamental rights of persons with intellectual disabilities and persons with mental health problems and on separated asylum-seeking children. While acknowledging the existing interaction between the Agency and certain United Nations human rights treaty bodies, those attending the meeting agreed that such interaction could be further strengthened. For example, Agency country reports to treaty bodies could include a chapter on relevant European Union legislation by which member States were bound. That could facilitate the use by treaty bodies of the Agency's input in their lists of issues, concluding observations and general comments. It was also agreed that a comprehensive calendar of treaty body sessions would be shared with the Agency to facilitate submissions to individual treaty bodies.

VII. Decisions and recommendations

23. The twenty-second meeting of chairs greatly welcomed the possibility to interact for the first time with key actors at the European level during their annual meeting. They positively acknowledged the existing cooperation with European actors and expressed the wish that such cooperation would be institutionalized and enhanced in the future. They greatly welcomed the decision by the European Union to ratify the Convention on the Rights of Persons with Disabilities, and expressed the hope that the instrument of ratification would be deposited shortly.

24. The twenty-second meeting of chairs encouraged the European Union to systematically mainstream international human rights law and the recommendations of the United Nations human rights treaty bodies into its policies and laws, including the forthcoming European Union human rights strategy.

25. The meeting encouraged the European Court of Justice to refer to international human rights law and the recommendations of the United Nations human rights treaty bodies, when appropriate.

26. The meeting also encouraged the European Union to facilitate the implementation of the recommendations of United Nations human rights treaty bodies in European Union member States, as well as outside European Union territory.

27. The meeting encouraged the European Union to align its development, trade and aid policies with international human rights law, and to take into account relevant recommendations of the United Nations human rights treaty bodies.

28. The meeting suggested that the European Union should encourage and facilitate ratification by all its member States of all core international human rights treaties and related optional protocols, especially the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

29. The meeting encouraged cooperation between the United Nations human rights treaty bodies and the European Court of Human Rights on matters related to procedure, methods of work and jurisprudence. To that effect, encounters between treaty body members and the European Court's judges should be organized periodically. Exchanges at the level of their respective secretariats should also take place on a regular basis.

30. While preserving the confidentiality of the respective procedures, an institutional link should be established between the Petitions Section of OHCHR and the Court's secretariat that would allow the electronic exchange of information on procedural matters related, in particular, to cases that might have been submitted under both the universal and the European systems.

31. The meeting suggested that additional efforts should be made by both the treaty bodies and the Court to take into consideration their respective jurisprudence so as to seek coherence and avoid the fragmentation of international human rights law.

32. The meeting suggested that civil society organizations based in Europe should continue to enhance their cooperation with human rights treaty bodies, with the support of the European Union when advisable.

33. The meeting endorsed the points of agreement of the tenth and eleventh inter-committee meetings of the human rights treaty bodies, held from 30 November to 2 December 2009 and 28 to 30 June 2010, respectively (see annexes I and II).

34. Acknowledging the success of holding the meeting of chairs for the first time at the regional level, in Brussels, the meeting recommended that in future it should be held every other year at the regional level, with the objective of bringing the human rights treaty bodies closer to the implementation level and raising awareness in all regions of the work of the treaty bodies in order to strengthen linkages, synergies and implementation between international and regional human rights mechanisms and institutions.

VIII. Closing of the meeting

35. Before closing the twenty-second meeting of the chairs, Yanghee Lee, the Chair Rapporteur, brought to the attention of all chairs the following points for discussion:

(a) The Chair Rapporteur welcomed the new information tools prepared since early 2010 by the Human Rights Treaties Division of OHCHR. All chairs requested that the Division newsletter should be widely disseminated so as to increase the visibility of the work of the treaty bodies and to raise public awareness;

(b) In view of the recommendation to hold the meeting of the chairs every other year at the regional level, the Chair Rapporteur raised the issue of the relevance of the current format of the inter-committee meeting, including in that context. The chairs confirmed that the inter-committee meeting working group on follow-up should have its first meeting in early 2011, as planned. They expressed doubts and raised questions about the need to continue in the longer term with the inter-committee meeting annual plenary meeting (the chair and one member per treaty body), as many felt that the meeting of the chairs and the inter-committee meeting were overlapping more and more. It was decided that the 2011 inter-committee meeting would be maintained and would focus on themes identified during its eleventh meeting, but that in 2012 the annual meeting of the chairs should take place at the regional level, and that the inter-committee meeting plenary might be abolished. If that was confirmed, the annual meeting of the chairs could meet to cover both procedural and substantive issues. The chairs also discussed the possibility of holding an inter-committee meeting every two or three years;

(c) The Chair Rapporteur further raised the issue of in future providing the meeting of the chairs with decision-making powers, as already suggested in 2008. She specified that such powers could be extended mainly to procedural issues; all substantive decisions would go back to the respective treaty bodies for approval. That issue was briefly debated among the chairs, and it was decided that the issue should remain open for further discussion at the next meeting.

Annex I

Report of the tenth inter-committee meeting of the human rights treaty bodies

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I. Introduction

1. The tenth inter-committee meeting of the human rights treaty bodies was held at the Office of the United Nations High Commissioner for Human Rights (OHCHR) at Geneva from 30 November to 2 December 2009.

2. The following members of human rights treaty bodies attended:

Human Rights Committee

Abdelfattah Amor
Nigel Rodley

Committee on the Elimination of Discrimination against Women

Naéla Gabr (Chair)
Meriem Belmihoub-Zerdani
Silvia Pimentel

Committee on the Elimination of Racial Discrimination

Fatima-Binta Victoire Dah (Chair)
Nourredine Amir
Régis de Gouttes

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Malcolm David Evans
Emilio Ginés Santidrian
Zbignew Lasocik

Committee on Economic, Social and Cultural Rights

Jaime Marchan Romero (Chair)
María Virginia Bras Gomes

Committee on the Rights of the Child

Kamel Filali
Dainius Puras

Committee against Torture

Felice Gaer
Xuexian Wang

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

Abdelhamid El-Jamri (Chair)
Mehmet Sevim
Azad Taghizada

Committee on the Rights of Persons with Disabilities

Mohammed Al Tarawneh (Chair)
Mansur Chowdhury
Jia Yang

II. Opening of the meeting, election of officers and adoption of the agenda

3. The Chief of the Human Rights Treaties Branch, Ibrahim Salama, welcomed all chairs and members present on behalf of the High Commissioner and delivered a statement in which he expressed satisfaction about the opportunity to discuss follow-up procedures, in respect of both concluding observations and decisions, in the context of the meeting. He noted that this reflected the importance that treaty bodies conferred on the implementation of human rights norms by States parties. In particular, he noted that four treaty bodies had established follow-up mechanisms in recent years.

4. Mr. Salama mentioned that discussions on the universal periodic review mechanism, including its relation to the work of the treaty bodies, would continue as well.

5. He informed participants of the six priority areas for the work of OHCHR for the next two years, notably: (a) migration; (b) elimination of all forms of discrimination; (c) protection of economic, cultural and social rights; (d) protection of human rights in situations of armed conflict, violence and insecurity; (e) combating impunity and strengthening of the rule of law and democratic societies; and (f) strengthening international human rights mechanisms, including the treaty bodies.

6. He noted that he was pleased that efforts, including the convening of inter-committee meetings since 2002, had contributed to the increased coherence in the system. He further expressed the unquestionable need to consider the further harmonization of working methods, coherence and efficiency, especially in the light of the growing number of treaties and treaty bodies, with the Committee on Enforced Disappearances to begin its work the following year.

7. He also referred to the recent participation of former and current human rights treaty body experts in an informal meeting in Dublin to discuss possible broad lines for reform of the human rights treaty bodies, and noted that the meeting had adopted the Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System. He mentioned that participants of the inter-committee meeting would soon be contacted by the organizers of the Dublin meeting for their comments and support. Finally, he reassured participants that, throughout the process of reflection, numerous opportunities would be available for all experts to participate and contribute their views with regard to the issues at stake. He called upon experts to spearhead the process, as they were best placed to continue its exercise.

8. Following the statement of Mr. Salama, Naéla Gabr, Chair of the Committee on the Elimination of Discrimination against Women, was confirmed as the Chair/Rapporteur, and Mohammed Al Tarawneh, Chair of the Committee on the

Rights of Persons with Disabilities, was confirmed as Vice-Chair. The other Vice-Chair, Yanghee Lee, Chair of the Committee on the Rights of the Child, was absent. The participants adopted the agenda (HRI/ICM/2009/1/Add.1), with an additional more general agenda item entitled "future activities of the inter-committee meeting", and the programme of work.

III. Enhancing the effectiveness of the treaty bodies: a coordinated approach to the work of the treaty bodies

9. Under this agenda item, participants discussed improvement and harmonization of the treaty body working methods. Pursuant to a recommendation of the ninth inter-committee meeting, the tenth inter-committee meeting focused on three issues: follow-up to concluding observations; follow-up to decisions; and the universal periodic review as a standing agenda item. States parties, specialized agencies, funds and programmes, as well as non-governmental organizations present, were provided with the opportunity to speak under each agenda item.

A. Discussion on follow-up to concluding observations

10. Participants of the inter-committee meeting emphasized the significance of follow-up to concluding observations and recommended that the issue be a standing agenda item for each treaty body session. Participants agreed that follow-up procedures of all treaty bodies should be harmonized as far as possible.

11. Participants noted that all treaty bodies requested States parties to provide information on the implementation of the recommendations contained in the previous concluding observations in their subsequent reports or during the constructive dialogue.

12. Several treaty bodies, such as the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture, had formal procedures to monitor more closely the implementation of specific concluding observations, and the respective mandate holders (coordinator/special rapporteur rapporteur) for follow-up on concluding observations highlighted the main aspects of their treaty body-specific procedures on follow-up (see also HRI/ICM/2009/6). The representatives of the Committee on the Elimination of Discrimination against Women noted that the Committee had recently adopted such a procedure and that its modalities would be discussed at its upcoming forty-fifth session in January and February 2010. The representatives of the Committee on the Elimination of Racial Discrimination mentioned that the Committee had also identified a number of recommendations to be followed up during the universal periodic review process.

13. According to a recent preliminary review of the practice of the Committee against Torture, the reports of 81 States parties had been considered under its follow-up procedure since May 2003, when the procedure was adopted. From the assessment undertaken by the Rapporteur on follow-up, the overall response rate was deemed to be satisfactory, with a rate of approximately 75 per cent (50 States parties out of 67 had provided follow-up information), and generally within the deadline of one year or shortly thereafter. In the case of the Committee against

Torture, States parties were requested to provide follow-up information on three to six recommendations, with a majority being asked to provide information on prompt, impartial and effective investigations into allegations of torture and ill-treatment.

14. In the absence of a written follow-up procedure, members of the Committee on the Rights of the Child noted that they regularly engaged and participated in follow-up activities intersessionally at the national and regional levels, supported by OHCHR and the United Nations Children's Fund (UNICEF), among others. Representatives of the Committee on Economic, Social and Cultural Rights and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families informed the meeting that both committees were planning to discuss and adopt a follow-up procedure. The representatives of the Committee on the Rights of Persons with Disabilities indicated the Committee's interest in the current practices of treaty bodies with respect to follow-up procedures. The members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment underlined that the Subcommittee's practice differed from that of the other treaty bodies in that the Subcommittee did not consider State party reports, but rather carried out visits to States parties in a confidential procedure. Accordingly, follow-up to its recommendations would potentially differ from that of other treaty bodies, and could include follow-up visits and cooperation with national preventive mechanisms and the special fund established through the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. Participants emphasized the need to make the follow-up procedure transparent, unless the treaty specified otherwise. In that respect, participants of the inter-committee meeting discussed the possibility of each treaty body creating a web page dedicated to follow-up, which had already been done by some treaty bodies. Participants agreed that the documents to be posted on such a web page should include the recommendations identified for follow-up by the Committee, the follow-up information submitted by States parties, the letters sent by the Rapporteur/Committee and information submitted by stakeholders such as national human rights institutions and civil society organizations, including non-governmental organizations.

16. Participants highlighted the need to restrict the number of recommendations for which States parties could be asked to provide follow-up information, although some participants noted that such a limitation could pose problems, considering the interrelatedness of certain recommendations. Based on the experience of different treaty bodies and the discussion held, most participants agreed that the identification of three recommendations for follow-up would be ideal.

17. Based on the experience of a number of treaty bodies, participants discussed the possibility of sending reminders to States parties upon their failure to submit a follow-up report. It was also noted that some treaty bodies requested that consultations be held with representatives of a State party from which a follow-up report was more than six months overdue, with a view to discussing the delay and/or the progress made in implementing the recommendations of the Committee. Furthermore, some participants raised the possibility of involving the whole Committee and/or the country rapporteur in the assessment of the follow-up information received from States parties.

18. The issue of translation into working languages was highlighted by various participants, given that a delayed translation of follow-up information would hamper a timely assessment of the information. While the difficulties associated with the translation of lengthy follow-up reports were noted, the need to receive follow-up reports that contained all the information required to assess the implementation of recommendations was also stressed. Participants agreed that certain modalities of a follow-up procedure were to be left to the practice of treaty bodies, such as the possibility of imposing a page limit for follow-up reports. The point was made that this should be done with a view to alleviating the reporting burden for States parties and facilitating the timely translation of documents. Some participants noted that the number of mandate holder(s) and the criteria for the assessment of the follow-up information provided by States parties should be considered by each treaty body separately.

19. Participants of the inter-committee meeting emphasized the important role played by national human rights institutions and civil society organizations, including non-governmental organizations, in respect of follow-up at the national level. Participants agreed that the submission of information from such organizations and institutions on the implementation of recommendations at the national level should be encouraged, and addressed the timing for the submission of information to the treaty bodies.

20. Participants of the inter-committee meeting raised the issue of technical assistance and cooperation. Some participants emphasized the need for technical assistance from inter-governmental entities, including the International Labour Organization and the International Organization for Migration, if requested by a State party for the implementation of treaty body recommendations. Participants also discussed the possibility of consolidating the identification of recommendations for follow-up by different treaty bodies, with a view to receiving targeted technical assistance.

21. Some participants noted that the follow-up activities by OHCHR and other United Nations entities should be consolidated when organizing, inter alia, workshops, meetings, seminars and country visits.

22. All participants agreed that there was an urgent need for additional resources to be allocated to the Human Rights Treaties Branch of OHCHR for the support of the follow-up mechanisms of respective treaty bodies.

23. The representative of the Inter-Parliamentary Union informed participants about the Union's workshops with parliamentarians and civil society in different countries that were aimed at implementing treaty body recommendations. Representatives of civil society organizations and non-governmental organizations noted that follow-up to concluding observations was essential for the work of the treaty bodies. They encouraged treaty bodies to further develop and strengthen their follow-up procedures, with a view to adopting a procedure for qualitative assessment, and to formally seek and accept information from non-governmental organizations. They also emphasized that a transparent procedure would be essential and reiterated their previous recommendation concerning the creation of a master calendar of deadlines by which information should be submitted to treaty bodies. One representative highlighted the need to publicize all relevant information on a web page for each treaty body dedicated to follow-up, and the importance of follow-

up visits and the participation of civil society in reporting on progress made regarding implementation to the treaty bodies.

B. Discussion on follow-up to decisions

24. Under this agenda item, participants discussed ways to strengthen the follow-up to individual communications procedures or decisions with a view to obtaining the maximum response from States parties. Participants from each of the four treaty bodies currently dealing with individual communications, i.e., the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women, provided information on their existing formal follow-up procedures to monitor and encourage implementation by States parties of their decisions (see also HRI/ICM/2009/7). Such procedures included the publication of annual reports, notes verbales transmitted to States parties, meetings with the representatives of States parties and, on two occasions, missions to States parties. It was generally agreed that to a large extent those follow-up procedures had been successfully harmonized, making decisions more transparent and effective.

25. It was noted that the Committee on the Rights of Persons with Disabilities had not yet registered any individual communications, but members of the Committee mentioned that it would examine communications for the first time at its upcoming session in February 2010. It was also noted that neither the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families nor the Committee on Economic, Social and Cultural Rights had yet considered individual communications, as the provisions or instrument relating thereto had not yet become operative. Representatives of the Committee on the Rights of the Child mentioned that an open-ended working group of the Human Rights Council on an optional protocol to the Convention on the Rights of the Child was currently discussing the possible establishment of an individual communications procedure under the Convention. Nevertheless, the representatives of those treaty bodies that did not have an individual communications procedure expressed a willingness to learn from the experiences of the committees with established systems.

26. Participants generally agreed that the issue of follow-up to decisions was fundamental, and they noted that, although many States parties implemented treaty body decisions, constraints and difficulties still remained, with a significant number of States parties failing to abide by their commitments. Some challenges highlighted included cases of non-cooperation, non-response and even cases in which a State party would challenge the decision. Members of the Committee on the Elimination of Racial Discrimination reminded participants of the Committee's past proposal to create a single body dealing with individual communications, and proposed collaboration between the Secretariat and a working group of follow-up rapporteurs. Representatives of the Committee against Torture noted that non-compliance or rejection by a State party of the decisions of the Committee was a serious problem. At present, the Committee against Torture was developing a general comment on the evaluation of facts and evidence.

27. Participants highlighted the importance of continued dialogue with States parties. In their view, ways and means of encouraging States parties to implement decisions of the committees included workshops involving the special rapporteurs

on follow-up procedures, technical support, discussions with the States parties and increased awareness-raising. Ways of implementing the recommendations of the treaty bodies that had been undertaken by the committees included the education of professors, lawyers and jurists on the jurisprudence of a given State.

28. The Committee on the Rights of Persons with Disabilities noted that the future ratification of the Convention on the Rights of Persons with Disabilities by the European Union as a region, in addition to individual States parties, would need to be reflected in follow-up procedures as well.

29. It was noted that all of the decisions of all the committees included remedies for the victims following the finding of a violation. Although it was mostly agreed that remedies and compensation were extremely complex issues, the committees had differences in their approaches. The Human Rights Committee, the Committee against Torture and the Committee on the Elimination of Racial Discrimination adopted remedies specific to the individual case and, to the extent it might be pertinent, recommended amendments to legislation. The Committee on the Elimination of Discrimination against Women, however, adopted remedies specific to the victim, as well as very detailed general recommendations on the issues raised in the communication. Representatives of the Committee on the Elimination of Discrimination against Women pointed out that the Committee would consider both existing approaches, with a view to strengthening the procedure to ensure State party involvement and implementation of its decisions. They requested advice from other treaty bodies in that regard and asked them to share their experiences in handling remedies for cases.

30. Most participants agreed that, given the complex nature of remedies, committees should consider adopting a similar and consistent approach in that regard. They generally agreed that follow-up was most successful when processes were precise and conducted effectively. The question of technical assistance and resources needed by States parties to carry out the remedies recommended by treaty bodies was also addressed. Finally, participants requested the Secretariat to prepare a background paper on convergence and divergence of follow-up procedures to individual communications.

31. Representatives of non-governmental organizations suggested that the treaty body system as a whole should issue and publish decisions on a more regularized basis in order to facilitate the involvement of civil society, enhance the effectiveness of the system and improve the ability of non-governmental organizations and local media to follow up on the implementation of decisions by their respective States parties.

32. The Secretariat reported on follow-up to decisions and challenges in that regard, noting that some committees were affected to a greater extent than others given the number of rights and violations they dealt with. It was reiterated that information on follow-up to decisions was regarded as a public procedure unless otherwise decided by the Committee.

C. Discussion on inquiries and visits

33. Four treaty bodies, namely the Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of

Persons with Disabilities and the Committee on Economic, Social and Cultural Rights may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of their respective conventions in a State party. Inquiries may be undertaken only with respect to States parties that have recognized the competence of the relevant Committee in this regard. Only the Committee against Torture and the Committee on the Elimination of Discrimination against Women have used this procedure so far. A brief introduction of the procedure by representatives of the Committee against Torture and the Committee on the Elimination of Discrimination against Women triggered a number of questions from representatives of those treaty bodies which did not have such a procedure.

34. Members of the Subcommittee on Prevention of Torture informed the meeting that the objective of the Subcommittee, as provided for by the Optional Protocol to the Convention against Torture, was to establish a system of regular visits to places where persons were deprived of their liberty. They highlighted that their work was not separated into inquiries, visits, recommendations and follow-up but rather that the intention was to have an ongoing exchange on a rolling basis.

35. Following the brief discussion, the inter-committee meeting recommended that treaty bodies able to conduct inquiries should consider the feasibility and necessity of establishing a follow-up procedure that was specific to the inquiry procedure. It was further agreed that the theme of follow-up to inquiries and visits should also be discussed by the proposed working group on follow-up and that one subgroup would address follow-up to concluding observations, inquiries and visits.

D. Other issues

Translation and resources

36. Participants discussed the importance of the translation of documents into working languages, including Braille, as well as the resources allocated to the work of the treaty bodies. In the light of the difficulties faced in respect of translations, the meeting agreed to reiterate its previous request to United Nations conference services, as well as to all other relevant entities, to provide sufficient services in terms of timely translations, including replies of States parties to lists of issues, so as to enable an effective functioning of treaty bodies. The meeting particularly emphasized the need to allocate additional resources to follow-up activities with regard to treaty body concluding observations, decisions and views, including the specific designation of financial and human resources within OHCHR to assist the treaty bodies with their respective follow-up mechanisms.

Future activities of the inter-committee meeting

37. Under the additional agenda item, participants discussed the future activities of the inter-committee meeting. There was general agreement that focusing on one specific topic would be preferable. Participants decided that the eleventh inter-committee meeting would focus on the theme of preparation and analysis as a basis for lists of issues, including lists of issues prior to reporting (targeted or focused reports), taking into account the application of the common core document and the treaty-specific reporting guidelines. It was also agreed that the meeting of chairs would identify such a specific theme to be discussed at subsequent inter-

committee meetings, which would allow the committees to make informed decisions concerning their representation at such meetings.

38. The meeting also agreed that background documentation prepared by the Secretariat on the specific theme with respect to current practices, as well as suggestions for possible areas for harmonization, should be circulated well in advance of the meeting in order to allow the members to be well prepared for the discussion.

39. Further to the establishment of the thematic working groups, including the working group on follow-up, participants agreed that the inter-committee meeting would meet once per year, with the participation of the chairs of the human rights treaty bodies, who were ex officio members for that purpose, as well as one additional member of each treaty body.

IV. Draft points of agreement of the tenth inter-committee meeting

40. The tenth inter-committee meeting decided on the following points of agreement, to be transmitted to the twenty-second meeting of the chairs in 2010.

Inter-committee meeting

(a) Recognizing the need to further improve and harmonize the working methods of the human rights treaty bodies, the tenth inter-committee meeting reiterated its previous recommendation (see A/64/276, annex I, paras. 49 (j) and (m)) to establish a working group on follow-up, composed of both the rapporteurs on follow-up to concluding observations and the rapporteurs on follow-up to individual communications of each treaty body, if applicable, or the members responsible for follow-up activities. The meeting also recommended that the working group should be divided into two subgroups, one on follow-up to concluding observations, inquiries and visits[4] and one on follow-up to individual communications, and that the subgroups should meet in parallel once per year for a period of two days, with a view to facilitating interaction. The tenth inter-committee meeting also recommended that the subgroups should commence their work by determining their modalities, terms of reference and working methods, and that the working group should report to the inter-committee meeting. It further recommended that other thematic working groups should be established as decided, and requested the Secretariat to organize the meetings of the working groups within available resources.

(b) The tenth inter-committee meeting recommended that the practice of establishing such thematic working groups should be reviewed after two years, in view of its experimental nature.

(c) Taking into account the establishment of the thematic working groups, the tenth inter-committee meeting recommended that the inter-committee meeting should be held once per year, with the participation of the chairs of the human rights

[4] "Visits" refers to the visits undertaken by the Subcommittee on Prevention of Torture as provided for by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

treaty bodies, who were ex officio members for that purpose, as well as one additional member of each treaty body.

(d) The tenth inter-committee meeting recommended that a standing item on its agenda should be the strengthening of the treaty body system through the improvement and harmonization of treaty body working methods. In addition to the standing agenda item, it decided that the eleventh inter-committee meeting would focus on the theme of preparation and analysis as a basis for lists of issues, including lists of issues prior to reporting (targeted or focused reports), taking into account the application of the common core document and the treaty-specific reporting guidelines. The tenth inter-committee meeting also recommended that the meeting of the chairs should identify such a specific theme to be discussed at subsequent inter-committee meetings. Furthermore, the tenth inter-committee meeting recommended that documentation for the inter-committee meetings should include a background paper on such theme, prepared by the Secretariat, with respect to current practices as well as suggestions for possible areas of harmonization. That background paper would be circulated to all treaty bodies as early as possible prior to the inter-committee meeting in order to allow each treaty body to discuss the theme in preparation for the meeting.

Follow-up to concluding observations adopted in the context of the State party reporting process

(e) The tenth inter-committee meeting agreed that follow-up procedures were an integral part of the reporting procedure and an important aspect of the work carried out by the treaty bodies in order to ensure effective follow-up to concluding observations, and reiterated the recommendation of previous meetings that each treaty body should consider adopting a procedure within a reasonable time period. Such a procedure could include a request to States parties to respond, within a designated period of time, to priority issues identified by the Committee. The tenth inter-committee meeting recommended that reminders should be sent to States parties that did not respond to the request for information within a given deadline, in accordance with the decision by each treaty body.

(f) The tenth inter-committee meeting recommended that the modalities of follow-up procedures on concluding observations should be developed by each treaty body, and further elaborated and acted upon within the working group on follow-up. The procedure should consist of one or more mandate holder(s), who would assess the information provided by States parties and develop, as necessary, pertinent criteria for analysis of the information received. The tenth inter-committee meeting recommended that the working group on follow-up should serve as a tool for the harmonization of such procedures. Furthermore, the meeting reiterated its previous recommendation that each treaty body should complete by 2011 an assessment and analysis of its follow-up procedure, identifying difficulties, obstacles and results, with a view to facilitating the task of the working group on follow-up.

(g) The tenth inter-committee meeting recommended that the follow-up procedure of each treaty body should be undertaken in a transparent manner and therefore be considered as a public procedure. It recommended that all the information received from States parties and correspondence between States parties and the treaty bodies should be made publicly available, including information

received from other stakeholders, such as national human rights institutions and civil society, including non-governmental organizations. In that respect, the tenth inter-committee meeting recommended that a separate web page on follow-up should be created for each treaty body to include such information.

Follow-up to individual communications

(h) The tenth inter-committee meeting requested the Secretariat to prepare a background paper on the convergence and divergence of follow-up procedures to individual communications of the treaty bodies, and to present such paper to the proposed subgroup on follow-up to individual communications, as referred to in paragraph 41 above, with a view to facilitating the discussions of the subgroup.

(i) The tenth inter-committee meeting recommended that decisions and views on individual communications should be published in a regular and systematic way and disseminated broadly, with a view to enhancing the involvement of national human rights institutions and civil society in encouraging the implementation by States parties of the decisions and views of treaty bodies.

Follow-up to inquiries

(j) The tenth inter-committee meeting recommended that treaty bodies should be able to conduct inquiries to consider the feasibility and necessity of establishing a follow-up procedure that was specific to the inquiry procedure.

Involvement of other stakeholders in follow-up activities

(k) The tenth inter-committee meeting reiterated its previous recommendation concerning the important role played by national human rights institutions, national preventive mechanisms and civil society, including non-governmental organizations, in respect of follow-up at the national level, and encouraged the support of such stakeholders in the implementation of the follow-up procedures of treaty bodies. The tenth inter-committee meeting further recommended that the secretariat of each treaty body should clarify and make public the deadlines for submission of such information.

Reservations

(l) Further to the recommendation of the sixth inter-committee meeting that the working group on reservations should be maintained and should meet if required, the tenth inter-committee meeting requested the Secretariat to include in its report on reservations, prepared on a regular basis, information on the progress made by the International Law Commission with regard to reservations. In view of that information, the inter-committee meeting would then decide whether the working group on reservations should reconvene.

Technical assistance

(m) The tenth inter-committee meeting encouraged all actors involved in international cooperation, including OHCHR, to engage in capacity-building and technical assistance activities in relation to the implementation of the recommendations, decisions and views of treaty bodies, in particular through its

regional and field presences, and to seek to involve relevant United Nations entities in such activities.

Human and financial resources

(n) In the light of the difficulties faced in respect of translations, the tenth inter-committee meeting reiterated its previous request (see A/64/276, annex I, para. 49 (v)) to conference services and to all other relevant entities to provide sufficient services in terms of timely translations, including of the replies of States parties to lists of issues, so as to enable an effective functioning of treaty bodies.

(o) In that respect, the tenth inter-committee meeting expressly recommended that additional resources should be allocated to follow-up activities with regard to the concluding observations, decisions and views of treaty bodies, and that financial and human resources should be specifically designated within OHCHR to assist the treaty bodies with their respective follow-up mechanisms. The tenth inter-committee meeting further recommended that a specific request should be transmitted to States parties and to conference services to ensure that sufficient resources were made available to the follow-up procedures, including for timely translations.

Annex II

Report of the eleventh inter-committee meeting of the human rights treaty bodies

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I. Introduction

1. The eleventh inter-committee meeting of the human rights treaty bodies was held at the Office of the United Nations High Commissioner for Human Rights (OHCHR) at Geneva from 28 to 30 June 2010.

2. The following members of the human rights treaty bodies attended:

Human Rights Committee

Yuji Iwasawa (Chair)
Helen Keller

Committee on the Elimination of Discrimination against Women

Silvia Pimentel (Vice-Chair)
Ferdous Ara Begum

Committee on the Elimination of Racial Discrimination

Anwar Kemal (Chair)
Fatima-Binta Victoire Dah

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Víctor Rodríguez Rescia (Chair)
Emilio Ginés Santidrian

Committee against Torture

Claudio Grossmann (Chair)
Felice Gaer

Committee on Economic, Social and Cultural Rights

Jaime Marchan Romero (Chair)
Clement Atangana

Committee on the Rights of the Child

Yanghee Lee (Chair)
Agnes Akosua Aidoo

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

Abdelhamid El-Jamri (Chair)
Ahmed Hassan El-Borai

Committee on the Rights of Persons with Disabilities

Ronald Clive McCallum (Chair)
Mohammed Al Tarawneh

II. Opening of the meeting, election of officers and adoption of the agenda

3. The meeting was opened by Ms. Kyung-wha Kang, Deputy High Commissioner for Human Rights, who greeted all chairs and members present on behalf of the High Commissioner for Human Rights. The Deputy High Commissioner welcomed some recent treaty body-related developments in the ongoing expansion of the treaty body system. In view of the challenges inherent in unfettered growth, the Deputy High Commissioner took note with interest of the points of agreement adopted by the last inter-committee meeting, which were before the meeting of the chairs for adoption that week. She considered that the new optional reporting procedures under consideration by the eleventh inter-committee meeting, including lists of issues prior to reporting, could enhance the quality of the reports of States parties and deepen the understanding of key challenges, thus facilitating more focused reports and more specific concluding observations. The Deputy High Commissioner referred to those lists of issues as a useful proposal to flesh out within the broader debate on new ways for treaty bodies to work, but cautioned that, owing to their analytical dimension, they could increase the workload of the Secretariat. She stressed the importance of the treaty bodies' output as normative grounds for actions undertaken by OHCHR, as also reflected in the Office's strategic management plan for 2010-2011.

4. With regard to the difficulties concerning the timely translation of treaty body documents, the Deputy High Commissioner assured the meeting that the resolution of that issue was a priority for OHCHR, and called for the leadership of the inter-committee meeting in ensuring length limits to the reports of States parties. In that regard, she highlighted that the way to move forward on page limits was for the treaty bodies to enforce such limits where they existed. To ensure the effective enforcement of page limits, the Deputy High Commissioner suggested that a system of returning excessively long State party reports should be set up by the Secretariat and applied in close consultation with the treaty bodies. As a next step, the inter-committee meeting was advised to consider establishing page limits for other documentation, such as lists of issues and replies of States parties. She stressed the importance of demonstrating a firm commitment to rationalizing the reporting process in order to strengthen the Office's position in requesting sufficient resource allocation to the treaty body system.

5. The Deputy High Commissioner noted the proactive response by treaty body experts to the call by the High Commissioner last year to reflect upon and submit proposals on ways to streamline and strengthen the treaty body system. She noted a number of initiatives that had taken place since then, such as the Dublin Statement on the Process of Strengthening of the United Nations Human Rights Treaty Body System and the Marrakech statement formulated by national human rights institutions, and indicated that other consultations were under preparation. The Deputy High Commissioner stressed that it was incumbent upon each treaty body to contribute to the process of developing and upholding a clear workable vision of a coherent treaty body system that effectively defended indivisible and interdependent human rights. She indicated that this had been a major focus in the work of OHCHR, as exemplified by the engagement of a consultant to map out treaty body-related workflows and work processes within OHCHR. Finally, the Deputy High Commissioner expressed the wish to see broad agreement on a meaningful set of

treaty body strengthening measures emerge in the near future, and assured the inter-committee meeting of the full support of OHCHR in its important work.

6. In an exchange of views with the Deputy High Commissioner, participants of the eleventh inter-committee meeting expressed appreciation for the priority given by OHCHR to the issue of translation, and drew attention to the difficulty the treaty bodies faced in performing their task properly without timely translation of the documentation. Some participants suggested the establishment of a tracking system for non-translated documents, which was welcomed by the Deputy High Commissioner. Many participants welcomed the weekly update and newsletter of the Human Rights Treaties Division and recommended their wider dissemination.

7. Following the statement of the Deputy High Commissioner, Yanghee Lee, Chair of the Committee on the Rights of the Child, was elected Chair/Rapporteur of the eleventh inter-committee meeting, and Ronald Clive McCallum, Chair of the Committee on the Rights of Persons with Disabilities, was elected Vice-Chair. Participants adopted the agenda (HRI/ICM/2010/1) and the programme of work.

III. Enhancing the effectiveness of the treaty bodies: a coordinated approach to the work of the treaty bodies

8. Under this agenda item, participants discussed how to improve and harmonize the working methods of the treaty bodies. Pursuant to a recommendation of the tenth inter-committee meeting, the eleventh inter-committee meeting focused on the preparation of lists of issues, including lists of issues prior to reporting.

9. The background documentation on lists of issues prior to reporting (HRI/ICM/2010/3) and on working methods of the treaty bodies (HRI/ICM/2010/2) constituted the basis for discussion.

10. States parties, specialized agencies, funds and programmes, as well as non-governmental organizations present, were provided with the opportunity to speak under each agenda item.

A. Lists of issues, including lists of issues prior to reporting

11. The Committee against Torture, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination presented new procedures that had recently been adopted by the respective committees for the preparation and analysis of lists of issues.

12. The representative of the Committee against Torture introduced the optional reporting procedure adopted in May 2007, which consisted of the preparation and remittal of lists of issues prior to the submission by the State party of its periodic report. The rationale behind that new procedure was that it would assist States parties in their reporting obligation by identifying in advance issues of key concern to the Committee. The procedure was expected to contribute to more focused reports, enrich the dialogue and result in more specific recommendations. It was stressed that the new procedure had the potential to add to the coherence of the treaty body system by drawing upon the outputs of other treaty bodies and to give relevance to the follow-up procedure of the Committee against Torture. The need for

increased specialization and knowledge on the part of the Secretariat, as well as the Committee, in order to draft and adopt such precise and focused lists was identified as a main challenge. The potential loss of time and resources in case States parties did not reply to the lists of issues prior to reporting was also highlighted. Noting that a full assessment of the new methodology was premature, the Committee indicated that it would conduct a preliminary assessment at the end of 2010 upon completion of the first cycle of States parties reporting under that procedure.

13. The Human Rights Committee indicated that it had adopted a similar procedure in October 2009 and that further modalities for the effective implementation of that procedure would be considered at its July 2010 session. In addition to the advantages already mentioned by the Committee against Torture, the Human Rights Committee noted that the new procedure offered the possibility to initiate dialogue with States parties that had failed to meet their reporting obligations. The importance of ensuring the participation of non-governmental organizations in the process, including through the clear announcement of deadlines for submissions, was stressed. The Committee had decided that the procedure would not be mandatory and that the Committee would need to elaborate on the criteria for when a State party would be invited to follow the new procedure.

14. The Committee on the Elimination of Racial Discrimination said that it had adopted, in March 2010, a new procedure consisting of a list of themes, which would replace the standard list of issues. The list of themes would not require written replies from a State party, thereby easing the burden on States parties, conference services and the Secretariat. It was further expected that lists of themes would streamline the work of the Committee and allow for more focused discussion with States parties.

15. The inter-committee meeting welcomed the initiatives of the Committee against Torture, the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, which led to reflection on how to improve the working methods of the treaty bodies. Some participants highlighted the possible implications of lists of issues prior to reporting, including the prioritization of issues that might jeopardize the ability of treaty bodies to consider the implementation of rights in a holistic manner and the fact that the reporting initiative was shifted from States parties to the treaty bodies, thereby taking away the opportunity for States to make a comprehensive assessment of the implementation of the treaties through an inclusive process. In addition, that might deprive the committees of critical country-specific information based on which relevant questions could be formulated. The inter-committee meeting requested the Committee against Torture and the Human Rights Committee to share the results of their preliminary assessments with the twelfth inter-committee meeting.

16. Participants stressed the importance of the treaty bodies being mindful of and taking due account of previous concluding observations, follow-up information and views adopted under the individual complaints procedures when beginning a new reporting cycle.

17. Since lists of issues prior to reporting were not to be applied to initial reports and were optional procedures, the relevance of treaty-specific reporting guidelines was confirmed by the inter-committee meeting.

18. The meeting emphasized the crucial role played by national human rights institutions and civil society, including non-governmental organizations, with regard to the preparation of lists of issues prior to reporting. Participants encouraged the treaty bodies to facilitate the active participation of such entities in the process.

19. Representatives of non-governmental organizations welcomed the drafting and use of lists of issues by the treaty bodies, and highlighted some issues, with a view to further enhancing the input of civil society into the process. In particular, the possibility of civil society providing updated input in the period between the adoption of lists of issues and the consideration of the State party report was noted. The need to retain a clear focus on cross-cutting issues, in particular equality and non-discrimination, was highlighted. In that regard, a calendar indicating the dates of the review and deadlines for submissions from civil society was proposed. With respect to lists of issues prior to reporting, representatives of non-governmental organizations encouraged continued evaluation. They also emphasized the need to ensure the possibility of non-governmental organizations contributing to the drafting of lists of issues prior to reporting at an early stage, including through briefings before the committee. The inter-committee meeting was provided with a written joint submission by non-governmental organizations, which was available on the OHCHR website.

B. Harmonization of working methods

20. Participants decided to discuss the need to rationalize treaty body documentation so as to ensure the effective functioning of the system. Reference was made in that regard to the increasing inability of conference services to provide treaty bodies with timely translation and to concerns expressed by conference services about the quality of the reports of States parties. Streamlining the working methods of the treaty bodies with respect to the length of reports of States parties (lists of issues and concluding observations) was the focus of the discussion in that regard.

C. Length of reports of States parties

21. Participants recalled the agreement of the fifth inter-committee meeting to set page limits, varying from 40 to 80 pages, for reports of States parties, which was contained in the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN.2/Rev.6, para. 19),[5] and the decisions taken by the Committee on the Elimination of Discrimination against Women, the Committee on Migrant Workers and the Committee on the Rights of the Child on the length of reports of States parties. Some participants discussed whether the length of the report should take into account the structure of the State, with particular reference to federal States and those with overseas territories. The meeting emphasized the need for all treaty bodies to enforce the page limitations set in the harmonized and treaty-specific guidelines regardless of the structure of the State.

[5] "If possible, common core documents should not exceed 60-80 pages, initial treaty-specific documents should not exceed 60 pages, and subsequent periodic documents should be limited to 40 pages."

22. The inter-committee meeting suggested that a standard sentence should be inserted in the concluding observations of each treaty body requesting States parties to respect the page limit when submitting their subsequent reports. In order to ensure consistency, the eleventh inter-committee meeting requested the Secretariat to prepare language for such a standard sentence, which would explain the constraints encountered by conference services and the fact that lengthy reports might not be processed and translated in time for the session. The inter-committee meeting recommended that the Secretariat should send a note verbale to all States parties conveying the concerns expressed by conference services in that regard. In order to ensure that page limits were applied in practice, it was further recommended that the Secretariat should request States parties whose reports would not meet the length requirements to reduce them, highlighting the possibility of States parties submitting additional information, not for translation, in electronic format or in appendices.

D. Length of concluding observations

23. The meeting discussed and agreed upon the need to restrict the length of concluding observations, which at present differed from committee to committee. Several treaty bodies noted internal decisions taken to limit the length of their concluding observations. In that regard, the Committee on Economic, Social and Cultural Rights informed participants of its recent decision to discontinue reference in the Committee's concluding observations to factors and difficulties impeding the implementation of the International Covenant on Economic, Social and Cultural Rights. Some participants noted that limitations on concluding observations should be applied with a certain flexibility and that a strong focus on the quality of the concluding observations should be retained. Some participants expressed reluctance concerning the need to prioritize some issues in order to reduce the length of their concluding observations. In order to achieve greater impact, the eleventh inter-committee meeting recommended that each treaty body should explore ways of reducing the length of its concluding observations. The need for concluding observations to be as precise as possible while ensuring their high quality and the full exercise of the mandate of the treaty bodies in monitoring the implementation of all rights enshrined in their respective Conventions was highlighted.

24. The issue of mutual cross-referencing among treaty bodies was addressed by the participants, who noted the benefits of such a practice in regard to strengthening the coherence and legitimacy of the system. The point was made, however, that this should be applied on a case-by-case basis.

25. Representatives from non-governmental organizations expressed caution concerning the reduction of the length of reports of States parties and concluding observations. They highlighted the need for flexibility so as to ensure that all relevant human rights issues were addressed.

E. General comments

26. Participants discussed General Assembly resolution 64/152, which did not refer to the adoption by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights of General Comments No. 33 and No. 20,

respectively. The inter-committee meeting expressed concern that a selective approach could undermine the independence and integrity of the treaty bodies and challenge the legitimacy of general comments.

F. Other issues

27. The inter-committee meeting noted that the strengthening of the treaty body system through the improvement and harmonization, where possible, of the working methods of treaty bodies should be a standing item on the agenda of the inter-committee meeting.

28. Participants discussed the future activities of the inter-committee meeting and agreed that the twelfth inter-committee meeting would focus on the structure of the dialogue with States parties and interaction with stakeholders. It was further agreed that the discussion on the structure and length of concluding observations would be continued.

29. The meeting also agreed that background documentation prepared by the Secretariat on the above-mentioned themes should be circulated well in advance of the meeting in order to allow members to be well prepared for the discussion. Such documentation should indicate current practices and suggestions for possible areas of harmonization.

30. The inter-committee meeting expressed its appreciation for the digest of inter-committee meeting recommendations prepared by the Secretariat, and recommended that the digest should be kept updated for submission to subsequent meetings and issued as an official document of the United Nations.

31. Participants discussed the terminology used to refer to reports submitted by civil society organizations and agreed on the inappropriateness of the term "shadow report". It was decided that such submissions would henceforth be referred to as "alternative reports" or "reports of non-governmental organizations".

IV. Informal consultations with States parties

32. The inter-committee meeting held informal consultations with representatives of 50 States parties on 29 June 2010. Representatives of the committees outlined recent developments and new working methods in their respective committees and noted some innovative approaches towards strengthening the treaty body system. In that regard, reference was made to the procedure of lists of issues prior to reporting that had been adopted by the Committee against Torture and the Human Rights Committee.

33. The inter-committee meeting addressed the advantages and challenges of using lists of issues prior to reporting, underlining the importance of receiving feedback through consultations with States parties and the need to ensure the coherence of the treaty body system without losing specificity. Information was presented about the ongoing universal campaigns for the ratification of the Optional Protocols to the Convention on the Rights of the Child, the decision by Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women to adopt a joint general comment on harmful traditional practices and the fact that

the twenty-second annual meeting of the chairs would take place in Brussels. The structural challenges for treaty bodies in terms of workload and availability of documentation were also stressed.

34. States welcomed the opportunity to engage in consultations with the inter-committee meeting, noting that such consultations provided a platform for dialogue and interaction, and reiterated their support for the work of the treaty bodies.

35. Several States referred to the advantages of using lists of issues prior to reporting and noted that the procedure could contribute to reducing the reporting burden, achieving more targeted reports and facilitating dialogue with treaty bodies and national constituencies. Several States said that they would avail themselves of that optional reporting procedure. A few States were of the view that further substantive reflection was needed. They underlined the importance of the following: ensuring input from civil society prior to the finalization of those lists of issues; not limiting the ability of the State party to share its best practices; and ensuring respect for the universality of human rights.

36. States expressed their encouragement of the harmonization of the working methods of treaty bodies and their support for strengthening cooperation between treaty bodies. It was indicated that streamlining procedures would reduce the reporting burden on States parties. A few States stressed that strengthening treaty bodies should not undermine their independence, while some States also underlined that harmonization should not interfere with the specificity of the various treaty bodies. A number of States mentioned the need to ensure more coordinated and focused follow-up procedures and highlighted the need for more resources. Additional issues mentioned in relation to the harmonization of working methods were coordinated reporting schedules, reduction of overlap and consistency in interpretation, lists of issues, common core documents and joint general comments.

37. With regard to the universal periodic review mechanism, a number of States underlined the need to ensure consistency between the recommendations resulting from the treaty bodies and those resulting from the universal periodic review. Some States, while acknowledging the complementarity of the treaty bodies and the universal periodic review, indicated that both mechanisms were of a different nature and should therefore be kept separate.

38. Several States supported the practice of joint general comments adopted by treaty bodies, while other States expressed concern with regard to the introduction, through general comments, of controversial issues that did not fall within universally agreed human rights obligations. In relation to the examination of States parties and concluding observations, several States parties expressed the view that treaty bodies needed to take into account the obligations that States parties had assumed upon ratification of the instruments, and underlined that concluding observations should reflect and address the replies provided by the State party during the dialogue with the treaty body. In addition, several States parties requested clarification on the modalities of certain treaty bodies in examining individual complaints.

39. Some States highlighted the importance of interaction with civil society in order to guarantee the quality of the dialogue with the State party. A number of

States stressed that treaty bodies should take only credible and reliable information into account.

V. Joint meeting of participants of the seventeenth meeting of special rapporteurs/representatives, experts and chairs of working groups of the special procedures with the chairs and members of treaty bodies

40. A joint meeting between the participants of the seventeenth annual meeting of special procedures mandate holders and participants of the eleventh inter-committee meeting, focusing on follow-up to the recommendations of human rights mechanisms, was held on 29 June 2010 and was led by the respective chairs. The follow-up procedure of the Committee against Torture was described by the Rapporteur on follow-up of that Committee, while the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions provided information on the development of follow-up mechanisms in relation to their mandates.

41. Coordinated and systematic follow-up to the recommendations of treaty bodies and special procedures and enhanced collaboration between the two mechanisms were regarded as crucial. Cross-referencing of their recommendations was essential for follow-up, as was identifying and sharing priority recommendations. Special procedures mandate holders and treaty body experts recalled that the inclusion of their recommendations in the universal periodic review had reinforced the weight of their respective recommendations. Follow-up could be enhanced by specific, measurable, achievable, realistic and time-bound recommendations.

42. Participants emphasized the comparative advantages and complementarities of both mechanisms. The flexibility of special procedures, including their capacity for immediate action and for undertaking country visits, was underlined, as was the cyclical and regular review of reports of States parties by treaty bodies. Special procedures were encouraged to reiterate the recommendations of treaty bodies during visits. The recommendation of some treaty bodies to invite relevant mandate holders was considered to be a good practice. Participants called for more joint meetings, including briefings. More effective information management of the vast documentation produced by the United Nations human rights mechanisms, including periodic updates and newsletters, as well as greater use of the Universal Human Rights Index, were recommended.

43. Sustained follow-up at both the global and local levels was emphasized as critical to ensure the implementation of recommendations. Responsibility for follow-up rested with the State, and both the Human Rights Council and the General Assembly had a responsibility to remind States of that and their human rights obligations. At the local level, stronger linkages with stakeholders were recommended through, inter alia, the enhanced dissemination and translation of recommendations, round-table discussions, effective media strategies and the facilitation of visits by treaty body and special procedures experts. Activities by United Nations country teams and OHCHR field offices were considered important in ensuring follow-up.

VI. Meeting with the Chair of the International Coordinating Committee of National Human Rights Institutions

44. The Chair of the International Coordinating Committee of National Institutions, Katharina Rose, addressed the inter-committee meeting on 30 June 2010. Her statement focused on the recent event in Marrakech, Morocco, at which representatives of national human rights institutions from all regions had discussed the strengthening of the relationship between national human rights institutions and the human rights treaty body system. In the outcome document, the "Marrakech Statement", national human rights institutions reaffirmed the treaty bodies as central pillars in the United Nations human rights system and emphasized that treaty body recommendations constituted a unique and solid basis for intergovernmental and national action. In that statement, national human rights institutions also recognized the usefulness of general comments as guidance for law reform and policy development.

45. The Chair of the International Coordinating Committee further highlighted that the Marrakech Statement recognized that the treaty body system was under considerable stress owing to the growth of the system, and that increased ratification and reporting had not been accompanied by commensurate additional resourcing. Those challenges had had an impact on the effectiveness and credibility of the system while also affecting the ability of national human rights institutions to interact effectively with treaty bodies. With a view to strengthening the authority of the work of the treaty bodies and increasing the ability of national human rights institutions to use treaty body reports, the Marrakech Statement outlined various proposals addressed to the treaty bodies, to Governments, to OHCHR and to national human rights institutions themselves. It also reiterated the commitment of national human rights institutions to support to the maximum the work of the treaty bodies, including by organizing training activities, and to keep under review the implementation by States parties of their obligations. In conclusion, the Chair of the International Coordinating Committee suggested that holding treaty body meetings outside of Geneva, for instance in regional capitals that had a United Nations presence, should be seriously considered.

46. Participants also met with a representative of the Danish Institute for Human Rights, who presented the findings of a mapping exercise undertaken by the Institute with a view to identifying how the human rights treaty bodies addressed HIV/AIDS in their concluding observations and recommendations. The representative of the Institute concluded that, from 2005 to 2010, HIV-related recommendations had been made for 89 countries (mostly with respect to women and children), but that treaty bodies should contribute more to the protection of the needs of populations most affected by the HIV epidemic and that more stakeholders should be active in implementing relevant treaty body recommendations.

47. Inter-committee participants enquired about the possibility of conducting treaty body sessions outside of Geneva and addressed ways and means to enhance the participation of national human rights institutions, including ombudsmen, in the treaty body system.

VII. Draft points of agreement of the eleventh inter-committee meeting

48. The eleventh inter-committee meeting decided on the following points of agreement to be transmitted to the twenty-second meeting of the chairs.

Inter-committee meeting

(a) The eleventh inter-committee meeting reiterated that the strengthening of the treaty body system through the improvement and harmonization, where possible, of treaty body working methods should continue to be a standing item on the agenda of the inter-committee meeting.

(b) The eleventh inter-committee meeting decided that the twelfth inter-committee meeting would discuss the following themes: structure of the dialogue with States parties and interaction with stakeholders, as well as continuation of the discussion on the structure and length of concluding observations.

(c) The eleventh inter-committee meeting recommended that documentation for the twelfth inter-committee meeting should include a background paper on the above themes, prepared by the Secretariat, with respect to current practices as well as suggestions for possible areas for harmonization. That background paper should be circulated to all treaty bodies as early as possible prior to the twelfth inter-committee meeting in order to allow each treaty body to discuss the themes in preparation for the meeting.

(d) The eleventh inter-committee meeting noted with appreciation the digest of inter-committee meeting recommendations prepared by the Secretariat and recommended that the Secretariat keep that document updated for submission to subsequent meetings. It encouraged the Secretariat to consider the possibility of issuing the digest as an official document. The eleventh inter-committee meeting also requested the Secretariat to prepare a consolidated implementation table of recommendations adopted by the inter-committee meeting since its first session.

Lists of issues prior to reporting

(e) The eleventh inter-committee meeting noted with interest the optional reporting procedures adopted by the Committee against Torture and the Human Rights Committee in respect of lists of issues prior to reporting. The eleventh inter-committee meeting encouraged all treaty bodies to consider whether such procedures could be applicable to them and recommended that the Committee against Torture and the Human Rights Committee should report back to the twelfth inter-committee meeting on their experiences in implementing such procedures.

(f) The eleventh inter-committee meeting emphasized the essential role played by national human rights institutions and civil society, including non-governmental organizations, with regard to the preparation of lists of issues prior to reporting, and encouraged their active participation in the process.

(g) The eleventh inter-committee meeting recommended that human, technical and financial resources should be allocated to the Secretariat for the preparation of lists of issues prior to reporting for those treaty bodies that adhered to

that practice in order to enhance the capacity of the Secretariat to meet the analytical requirements.

Concluding observations

(h) The eleventh inter-committee meeting recommended that each treaty body should explore ways of reducing the length of its concluding observations in order to achieve greater efficiency and impact without jeopardizing the quality of those concluding observations or the exercise of the monitoring mandate of the respective treaty body.

(i) The eleventh inter-committee meeting recommended that all treaty bodies should take due account of their previous concluding observations, as well as any follow-up information provided or remaining outstanding and views, decisions and opinions adopted under the individual complaints procedures, if applicable, when drafting lists of issues, lists of issues prior to reporting and concluding observations.

General comments

(j) The eleventh inter-committee meeting welcomed the initiative by the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women to prepare a joint general comment and recommended that other committees explore the possibility of issuing joint general comments.

(k) The eleventh inter-committee meeting expressed concern at the fact that the General Assembly had unfortunately taken note on a selective basis of the general comments adopted by the United Nations independent treaty monitoring bodies in the performance of their duties.

Documentation

(l) The eleventh inter-committee meeting reiterated its deep concern at the increasingly limited ability of conference services to provide translations of documents submitted by States parties to treaty bodies. The eleventh inter-committee meeting recommended that the Secretariat should keep track of documents not processed in time for the sessions of the treaty bodies.

(m) In view of the concerns recently expressed by conference services on the length and quality of the language of State party submissions, the eleventh inter-committee meeting recommended that the reports of States parties should be written in a clear and precise manner, and reiterated the page limits for State party reports, which varied from 40 to 80 pages, included in the harmonized guidelines for reporting and agreed upon by the fifth inter-committee meeting. The eleventh inter-committee meeting recommended that all treaty bodies should highlight in their concluding observations the need for States parties to respect such page limits and requested the Secretariat to prepare language explaining the rationale behind that.

(n) The eleventh inter-committee meeting further requested the Secretariat to ensure that such page limits were applied in practice, including by conveying the concerns expressed by conference services to all States parties through a note verbale and by requesting States parties whose reports would not meet such

requirements to review and eventually resubmit their reports in accordance with the above-mentioned guidelines.

Informal consultations with States parties

(o) The eleventh inter-committee meeting expressed its appreciation for the dialogue with States parties, which in its view provided a valuable opportunity for discussion and interaction. The eleventh inter-committee meeting recommended that sufficient time should be allocated and a specific and focused agenda should be prepared for the informal consultations with States parties in the context of the twelfth inter-committee meeting.

National human rights institutions

(p) The eleventh inter-committee meeting reiterated the recommendations of previous meetings that treaty bodies should continue their cooperation with national human rights institutions that conformed to the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles).[6] The eleventh inter-committee meeting welcomed the recent Marrakech meeting, at which national human rights institutions from all four regions were represented and strengthening the relationship between the human rights treaty body system and national human rights institutions was discussed. In that regard, the eleventh inter-committee meeting recommended enhanced cooperation with national human rights institutions in the process of strengthening and harmonizing the work of the human rights treaty bodies.

Civil society

(q) The eleventh inter-committee meeting reiterated its previous recommendation that the Secretariat should continue to facilitate the participation of civil society in the work of the treaty bodies, including by establishing a user-friendly master calendar that would provide information well in advance on the timetable for all the treaty bodies and on deadlines for civil society contributions relating to all stages of the reporting cycle, including lists of issues, lists of issues prior to reporting, country reviews and follow-up procedures.

(r) The eleventh inter-committee meeting considered the terminology of "shadow reports" in relation to submissions by civil society to be inappropriate and recommended that the treaty bodies should henceforth refer to such information as "alternative reports".

Indicators

(s) The eleventh inter-committee meeting welcomed the update received on the work of OHCHR on indicators and requested the Secretariat to keep the meeting informed of further developments.

[6] General Assembly resolution 48/134, annex.

Cooperation with special procedures mandate holders

49. The eleventh inter-committee meeting and the participants of the seventeenth annual meeting of special procedures mandate holders agreed on the following draft points of agreement to be transmitted to the twenty-second meeting of the chairs.

Strategic information-sharing on priority issues

(a) The joint meeting recommended a more systematic approach to the follow-up of respective recommendations by special procedures and treaty bodies, in particular by systematically sharing their respective priority issues in relation to country and thematic situations.

Systematic cross-referencing and the nature of recommendations

(b) The joint meeting further recommended more systematic cross-referencing and reinforcement of the recommendations of special procedures and treaty bodies. Specifically, the recommendations of special procedures and invitations for country visits could be taken into account and referred to in the concluding observations of treaty bodies. Similarly, reference to and follow-up to the recommendations and decisions of treaty bodies should be reinforced by mandate holders in their reports and country visits.

(c) In that respect, it was emphasized that recommendations should be specific, measurable, achievable, realistic and time bound in order to enable enhanced follow-up.

Joint meetings and briefings

(d) The joint meeting recommended regular interaction of the rapporteurs of the treaty bodies with special procedures mandate holders during annual meetings or other occasions. Specifically, it was recommended that a joint meeting of the inter-committee meeting working group on follow-up and the special procedures should be held in January 2011 in order to explore ways and means of strengthening a coordinated approach to follow-up. It was also recommended that, when relevant, country-specific or thematic mandate holders should brief treaty bodies in the context of country reviews.

Joint action

(e) The joint meeting recommended that joint letters between treaty bodies and relevant mandate holders should be sent to the Governments concerned, calling for treaty ratification or other action (as exemplified in the joint letter to Qatar from the Chair of the Committee on the Elimination of Discrimination against Women and the Special Rapporteur on violence against women).

(f) It was also recommended that joint action for follow-up to recommendations should target both local and global actors in order to have greater impact. Such activities could include the translation of recommendations into local languages, round-table discussions with local actors and engagement with the media, United Nations country teams and OHCHR field offices.

Responsibility for follow-up to recommendations

(g) The joint meeting underlined the responsibility of political organs, including the Human Rights Council and the General Assembly, to follow up with States on recommendations by the special procedures and treaty bodies. It was suggested that the special procedures should recall that responsibility in any contributions to be made to the forthcoming Human Rights Council review.

Information management

(h) The joint meeting recommended that the collective information produced by the treaty bodies and special procedures should be more available and accessible to all in order to better reflect the United Nations human rights system as a whole. Proposals to that end included regular updates and newsletters on the outputs and activities of treaty bodies and special procedures and a greater use of the Universal Human Rights Index.

(i) The joint meeting requested the Secretariat to prepare a compilation of good practices of cooperation between treaty bodies and special procedures.